

TAX IMPLICATIONS FOR UK AND IRISH INVESTORS IN GERMANY

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The advice detailed below applies to UK and Republic of Ireland resident individuals who have purchased German residential property and whose sole income in Germany is derived from rental income.

The taxation of the UK & Irish investor:

- Investors are liable for income tax on chargeable rental income and income tax on chargeable gains made on disposal;
- Germany has concluded a double taxation agreement with both the UK and Ireland. Accordingly, income tax paid in Germany on real estate income or gains is a credit against UK and Irish income tax.
- Income tax rates on rental income are 25% up to approx. €25,000. Thereafter, they are applied on a sliding scale depending on the taxable amount;
- Income tax on capital gains does not apply if property is owned for more than 10 years. Otherwise income tax rates apply in Germany;
- The German tax year runs parallel to the calendar year and the due deadline for filing is 31st May of the following year;

Rental Income Calculations

Income Tax Rates

<i>Taxable Income</i>	<i>Income Tax</i>	<i>Solidarity Surcharge</i>
€5,000	€1,250	€55
€25,000	€6,679	€367
€50,000	€16,306	€896

Assume purchase price of €100,000 (€80,000 for building and €20,000 for land)

Example with 60% loan at 4.9%		Example with no loan on property	
€4,600	Rental Income	€4,600	Rental Income
€1,600	Depreciation 2% of 80,000	€1,600	Depreciation 2% of 80,000
€357	Management Charges	€357	Management Charges
€297.50	Tax Adviser Fee	€297.50	Tax Adviser Fee
€500	Travel Expenses	€500	Travel Expenses
€2,900	Loan Interest		
-€1,054.50	Taxable Income	€1,845.50	Taxable Income
-€1,054.50	Loss carried forward (no German tax payable)	€461.37	Income Tax Due

Income tax payable in Germany is a credit against your UK or Irish income tax liability.

CAPITAL GAINS CALCULATIONS

Assume purchase price €100,000 (€80,000 for building and €20,000 for land)

Incidental costs of Acquisition €6,000

Assume selling after five years

Depreciation: 2% per annum of €80,000 over 5 years = €8,000

Book Value = €98,000 (€100,000 and €6,000 minus €8,000)

<i>Selling Price</i>	€125,000	€150,000	€175,000	€200,000
<i>Book Value</i>	€98,000	€98,000	€98,000	€98,000
<i>Capital Gains</i>	€27,000	€52,000	€77,000	€102,000
<i>Income Tax</i>	€7,343	€17,153	€27,646	€38,145
<i>Solidarity Surcharge</i>	€404	€943	€1,521	€2,098
<i>Approx tax %</i>	28.7%	34.8%	37.8%	39.5%

Under current legislation if you own the property for 10 years or more, then no German income tax is payable on capital gains.

There are significant German tax advantages if real property is held for more than 10 years.

The new Government has proposed reform to the taxation of capital gains. Under discussion is the introduction of a 25% flat rate for gains on shares and securities acquired after January 1, 2009. It is yet to be seen whether the government wishes to extend this to include real property.

Please note that the UK treatment of the German tax paid on capital gains differs from that of Ireland.

UK Resident Investors

Income tax payed on capital gains in Germany is a credit against your UK capital gains tax liability

Irish Resident Investors

Any German tax payable is a deduction from the chargeable capital gains.

INHERITANCE TAX (IHT) / CAPITAL ACQUISITIONS TAX (CAT)

The following presents a general explanation of how IHT/CAT might operate in Germany for the UK or Irish investor whose only asset in Germany is a rental property. It is not intended to be an exhaustive explanation and detailed advice should be sought from a tax expert for individual circumstances.

Three potential scenarios

1. Owner marries and subsequently dies and apartment left to spouse and/or children and/or parents
2. Owner dies and apartment left to family members e.g. brother or sisters
3. Owner dies and apartment left to friend

In all of the above scenarios IHT/CAT is payable in Germany as set out in the following table.

Note the value of the apartment for the purpose of the calculation of tax is deemed to be 12.5 times the annual rent less allowable depreciation.

There are three classifications for the purpose of calculating the tax rate applicable.

Classification	Deemed apt value of less than €52,000	Deemed apt value of €52,000 to €256,000	Deemed apt value of €256,000 to €512,000
1. Apartment inherited by parent, child, spouse	7%	11%	15%
2. Apartment inherited by brother / sister	12%	17%	22%
3. Apartment inherited by friend	17%	23%	29%

Assumptions :

1. Apartment in single name;
2. Purchased for €100,000 and currently worth €150,000;
3. Annual rent is €5,500;
4. The value of the apartment for the purpose of the calculation of tax is deemed to be 12.5 times the annual rent less allowable depreciation minus €1,100 allowance. Lets assume depreciation is €5,000 (0.5% per year of apartments age, max. 25%) then the deemed value is €63,750;

Tax payable for each of the three classifications above is as follows:-

1. Parent/Spouse/Child at 11% equals tax bill of €6,892. If wife already 50:50 owner then tax bill is reduced to 7% i.e. €2,154.
2. Brother/Sister at 17% equals €10,651.
3. Friend at 23% equals €14,410.

Please note that a mortgage or secured loan charged against the property is deductible from its taxable value.

Any IHT/CAT paid in Germany is treated as a tax credit in the event that any UK/Irish Inheritance tax or Capital Acquisitions Tax is payable.



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