

PANORAMIC

PRIVATE CLIENT

Germany



LEXOLOGY

Private Client

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LEGAL FRAMEWORK

Key legislation

What key legislation and regulations are relevant to foreign individuals moving to or investing in your jurisdiction? What government bodies are charged with enforcing these laws and what is the extent of their powers?

Tax law is the most relevant legislation for German residents or investors, as the German tax level is high. Tax law is enforced by local German tax authorities.

Law stated - 1 September 2024

Real property

Are there any particular rules or restrictions on foreign individuals purchasing or investing in real property in your jurisdiction?

In the case of transactions involving real estate located in Germany with foreign purchasers, a report to the transparency register may be necessary according to the German Anti-Money Laundering Act.

Law stated - 1 September 2024

Establishing a business

Are there any particular rules or restrictions on foreign individuals establishing a business in your jurisdiction?

For citizens of the EU, the EEA and Switzerland, the fundamental freedoms – freedom of establishment and freedom of trade – generally apply. This means that anyone may establish a business in any member state and there is a right of free movement in the respective state of residence. Therefore, no restrictions apply that do not also apply to German citizens.

Citizens from non-EU countries who wish to enter Germany to establish a business need a residence permit. The requirements for such a residence permit are generally fulfilled if:

- there is an economic interest or a regional demand;
- the activity is expected to have a positive impact on the economy; and
- and the financing is secured by equity or a loan commitment.

Further, when establishing a business, this must usually be reported to the responsible authority.

For certain areas of activity, a business licence is required, which serves as proof of personal reliability and orderly financial circumstances. The requirements for a business licence are significantly higher than those for a business registration. For business registrations and business licences, the municipal authority is charged with enforcing the decisive Trade, Commerce and Industry Regulation Act.

Law stated - 1 September 2024

TAX

Residence and domicile

How does an individual become taxable in your jurisdiction?

Tax liability in Germany is determined by the concept of residence. An individual is a German resident for tax purposes if they have either a permanent home or a habitual abode in Germany. Tax residence is assessed using objective criteria. The concept of domicile is not recognised in Germany.

The worldwide income and assets of individuals whose tax residence is in Germany (hereinafter referred to as residents) are subject to income tax and inheritance and gift tax (IGT).

Law stated - 1 September 2024

Income

What, if any, taxes apply to an individual's income?

An individual's income is subject to income tax. Income tax covers income from seven sources, as follows:

- income from agriculture or forestry;
- income from trade or business;
- income from self-employment;
- income from employment (salaries and wages);
- income from capital investments;
- income from letting property, especially real property or groups of assets; and
- other items of income, for example, income from leases of movable assets.

Income is generally taxed at a progressive tax rate, ranging from 14 to 45 per cent. In addition, a solidarity surcharge of 5.5 per cent of the tax due is still being levied. This surcharge was intended to finance the German reunification of 1990. As of 1 January 2021, the solidarity surcharge was completely abolished for 90 per cent of income taxpayers. Currently, only high earners, investors who have exhausted their savings allowance, limited liability companies and other corporations are still subject to the surcharge.

Law stated - 1 September 2024

Capital gains

What, if any, taxes apply to an individual's capital gains?

An individual's capital gains are subject to income tax. Income from capital investments is subject to withholding tax at a flat rate of 25 per cent plus the solidarity surcharge (a total of 26.375 per cent plus church tax, if any).

Law stated - 1 September 2024

Lifetime gifts**What, if any, taxes apply if an individual makes lifetime gifts?**

Lifetime gifts are taxable in accordance with transfers on death under the German Inheritance and Gift Tax Act.

Law stated - 1 September 2024

Inheritance**What, if any, taxes apply to an individual's transfers on death and to their estate following death?**

Each transferee is generally liable for IGT on the value of the assets transferred, regardless of their personal wealth. The tax rates range from 7 to 50 per cent, depending on the relationship between the transferor and the transferee and the value of the share of the estate received. Spouses and descendants pay IGT at a rate of 7 to 30 per cent. Transfers between most other relatives are taxed at a rate of 15 to 43 per cent. Between unrelated persons, the applicable tax rate is either 30 or 50 per cent for a value of more than €6 million.

The following tax-free allowances apply:

- spouses receive a personal allowance of up to €500,000 and a maintenance allowance of up to a maximum of €256,000; and
- descendants receive a personal allowance of up to €400,000 and an age-dependent maintenance allowance of up to €52,000.

There is no IGT on a lifetime transfer of the family home to a spouse, nor on an equalisation of the gains accrued during a marriage where the statutory matrimonial property regime of the community of surplus (as provided for by the German matrimonial regime or a similar foreign regime) applies.

Law stated - 1 September 2024

Real property**What, if any, taxes apply to an individual's real property?**

A real estate transfer tax with differing regional rates ranging from 3.5 to 6.5 per cent applies to:

- the acquisition of real property;
- the acquisition of a substantial shareholding in a company holding real property; and
- the change of shareholders of a company holding real estate.

In 2021, the legislature passed a real estate transfer tax reform that toughens some of the major rules of the Real Estate Transfer Tax Act. As of 1 July 2021, the rules that deem a transfer of real property in the event of a change of ownership of a partnership holding real property are extended to corporations. In addition, the relevant shareholding level in the case of share deals and changes of ownership was lowered from 95 to 90 per cent and the holding period was extended to 10 years.

An annual property tax may also be due on the value of real property (based on an assessed uniform value that is often less than the fair value of the property) at the discretion of the relevant local authority. Although the assessed uniform value is quite low, property tax is becoming more and more significant because of the continually rising rates of assessment. Further, the German Federal Constitutional Court held that property values that were last assessed in 1964 or 1935 are inconsistent with the constitutional principle of equality of taxation. In November 2019, the German parliament therefore introduced a reform law that includes new valuation rules for the period from 1 January 2022 onwards. Due to the new tax law, more than 30 million properties had to be reassessed. In future, property values must be assessed every seven years. The property tax calculated on the basis of the new property values is levied from 1 January 2025. In addition, the reform allows local authorities to determine a higher tax rate on undeveloped property that is ready for development from 2025. However, the constitutionality of the reform and the new assessment methods is already being questioned and legal actions against the new provisions have already been initiated.

Income from real property is subject to income tax at the standard rates.

Law stated - 1 September 2024

Non-cash assets

What, if any, taxes apply on the import or export, for personal use and enjoyment, of assets other than cash by an individual to your jurisdiction?

The import of assets to Germany may trigger value-added tax (VAT). There are different rules for transactions within the European Union and transactions to or from non-EU states.

The import of goods for personal use and enjoyment from non-EU states by an individual into Germany triggers import turnover tax. The import turnover tax rate equals the VAT rates of 19 or 7 per cent and must be paid to the customs authority. The import turnover tax cannot be refunded as input tax if the imported assets are not used for business but for personal use and enjoyment. The export of such goods to countries outside the European Union is generally VAT-free in Germany.

The import of assets for personal use and enjoyment from EU member states by an individual does not trigger VAT. However, Germany levies VAT on goods exported for personal use and enjoyment into EU member states.

Law stated - 1 September 2024

Other taxes

| What, if any, other taxes may be particularly relevant to an individual?

Wealth tax has not been levied in Germany since 1997 owing to it being declared unconstitutional by the German Federal Constitutional Court. Since then, there have already been numerous impulses in the political landscape for either reintroducing the tax or introducing a one-time wealth fee. This demand could even be found in some of the parties' election programmes for the 2021 federal election. Based on the current composition of the federal government, the introduction of a wealth tax is considered unlikely.

VAT applies to the net turnover of an entrepreneur at a tax rate of either 19 or 7 per cent (for certain tax-privileged turnover, such as food).

Law stated - 1 September 2024

| Trusts and other holding vehicles

| What, if any, taxes apply to trusts or other asset-holding vehicles in your jurisdiction, and how are such taxes imposed?

Neither domestic nor foreign trusts are recognised in Germany. Germany does not have its own trust law. Germany did not ratify the Hague Convention on the Law Applicable to Trusts and on their Recognition of 1985. Trusts can, however, trigger IGT in several ways. The establishment of a trust by residents or of a trust comprising assets located in Germany is considered a transfer of assets that is taxable in accordance with the Inheritance and Gift Tax Act. Distributions to beneficiaries during the trust period or on the trust's dissolution may trigger income tax and gift tax as well, if the beneficiary is a German resident or if German situs assets are distributed. The relationship between gift tax and income tax regarding trust distributions has not yet been ultimately clarified by the courts. The German Federal Fiscal Court considered double taxation to be generally constitutionally acceptable in a judgement in 2021, which the tax authorities agreed with in 2023.

In addition, corporate tax can be triggered if income is received by a foreign trust from German sources. The worldwide income of a foreign trust may be subject to corporate tax if the trust's management is in Germany and if certain other conditions are met. For example, the trust's management is in Germany if the effective management of a trust is vested with the trustee in Germany.

Undistributed income received by a foreign trust can be attributed to the settlor or the beneficiaries if they are German residents. In this case, it can be subject to the settlor's or the beneficiary's personal income tax.

Instead of trusts, corporations, fiscally transparent partnerships and foundations are used as asset-holding vehicles in Germany.

Corporations and non-charitable foundations are subject to corporation tax at a rate of 15 per cent plus a solidarity surcharge of 5.5 per cent of the tax. An additional trade tax of approximately 15 per cent (at the discretion of the competent local authority) is due for all corporations. Foundations are subject to trade tax only to the extent that they are engaged in trade or business.

Partnerships are treated as fiscally transparent; the income is attributed to the partners according to their interest in the partnership and subject to income tax at their level. The

partnership itself may be subject to trade tax; the partners will receive a tax credit for their personal income tax for any trade tax levied at the partnership's level.

IGT is levied if a non-charitable foundation is created or endowed with assets.

Law stated - 1 September 2024

Charities

How are charities taxed in your jurisdiction?

Charities are tax-privileged in Germany. Recognition as a charitable foundation or corporation requires that the charity's activities are dedicated to the altruistic advancement of the general public in material, spiritual or moral respects. These purposes must be pursued altruistically, exclusively and directly. The formation of a charity neither triggers any inheritance or gift tax, nor real estate transfer tax, if real property is transferred gratuitously to the charity. A charity is exempt from almost every current form of taxation, especially corporate tax and trade tax.

Special rules apply for charitable foundations. For example, a charitable foundation may use one-third of its income for the maintenance of the founder and their family. In addition, an endowment of up to €1 million made to increase the capital stock of the foundation may be deducted from the assessment basis for income tax purposes in addition to the deductions that can be made for gifts to other charities.

Law stated - 1 September 2024

Anti-avoidance and anti-abuse provisions

What anti-avoidance and anti-abuse tax provisions apply in the context of private client wealth management?

For persons who have become established in Germany by tax residency, controlled foreign corporation rules may apply for offshore corporations controlled by them. For shareholders of foreign corporations claiming a relief from withholding tax, the Income Tax Act provides for a substance test to avoid granting relief to shareholders of corporations that have been established solely to allow such a relief.

The income of an offshore family foundation or trust may be allocated to the settlor or the beneficiaries if they become residents in Germany.

In addition, the Defence against Tax Havens Act came into force on 30 June 2021. This act prohibits the deduction of business expenses and work-related expenses arising from business transactions with individuals, corporations, partnerships or assets domiciled in a non-cooperative tax jurisdiction. Moreover, the controlled foreign companies rules are tightened where intermediate companies are resident in tax havens. Further, stricter withholding tax measures will also apply, for example in cases where interest payments are made to persons who are resident in tax havens. For the purposes of the Tax Oasis Defence Act, 'non-cooperative tax jurisdictions' are all countries on the EU blacklist.

The EU's Anti-Tax Avoidance Directive obliged all member states to implement a minimum standard for additional taxation in national tax law. Based on the Directive, the rules of the Foreign Tax Act have been amended. The amended law is in force from 1 January 2022. In particular, the taxation of hidden reserves for departing natural persons with capital shares was tightened (exit tax). If an individual has owned shares in a corporation of more than 1 per cent within the past five years and has been subject to unlimited tax liability in Germany for at least seven years in the 12 years prior to departure, the disposal of the shares is feigned. The increase in the value of the shares is taxed without realisation (dry income). Any deferral and returner rules were tightened because of the amendment. Payment of exit tax is now due immediately. Upon request, payment can be made in seven annual instalments. Usually, a deferral is granted only upon the provision of collateral. In practice, tax offices often do not accept shares in the tax-triggering company as collateral. Often this is also not possible due to the articles of association. Violation of certain rules of conduct may lead to the immediate maturity of the tax payment. The tax claim expires if the taxpayer returns to Germany within seven years and has not transferred their shares in the meantime. An intention to return must be made credible in the tax return.

If no specific anti-avoidance rule applies, a general provision in the Fiscal Code of Germany may apply to prevent the avoidance of taxes. According to this general provision, legal constructions are invalid if they are not intended by law and are therefore legally inappropriate and if they lead to a tax advantage for the taxpayer or a third party.

Further, on 21 December 2019, the German parliament transposed the Council Directive (EU) 2018/822 into national law with effect from 1 January 2020. The new provisions oblige intermediaries to notify the tax authorities of cross-border tax arrangements first implemented after 24 June 2018.

Law stated - 1 September 2024

TRUSTS AND FOUNDATIONS

Trusts

Does your jurisdiction recognise trusts?

Trusts, domestic as well as foreign, are not recognised. Germany has not ratified the Hague Convention on the Law Applicable to Trusts and on their Recognition of 1985.

Law stated - 1 September 2024

Private foundations

Does your jurisdiction recognise private foundations?

German civil law provides for the creation of private foundations, which can be established as corporate bodies for any legal purposes. A family foundation can also be set up for the benefit of the settlor and their family. The foundation's directors are bound to the foundation's statutes as provided by the settlor. A private foundation resident in Germany is subject to supervision by a local authority under the applicable law of the respective federal state where the foundation's registered seat is. However, this supervision is very limited. Foreign private

foundations are recognised as well, provided that the structure is comparable to a foundation as provided for in German civil law.

Law stated - 1 September 2024

Disputes

What issues typically give rise to disputes relating to trusts and foundations? How are these disputes resolved? (What are the most common causes of action? Which courts are used? Is alternative dispute resolution (ADR) available and commonly used? What remedies are commonly awarded?)

The most common disputes among foundations occur in the following areas:

- disputes in the establishment stage of a foundation;
- disputes about rights and duties of foundation bodies;
- disputes with the decision making of foundation bodies; and
- disputes about the rights and obligations of the foundation participants.

In addition to an internal settlement, the civil and administrative courts are available to the parties to the dispute, depending on the content of the dispute.

Law stated - 1 September 2024

SAME-SEX MARRIAGES AND CIVIL UNIONS

Same-sex relationships

Does your jurisdiction have any form of legally recognised same-sex relationship?

From 1 August 2001, same-sex couples could enter into a registered civil partnership. A civil partnership is a recognised form of legal relationship similar to marriage, except regarding the rules concerning the adoption of children.

On 20 July 2017, a law was passed allowing same-sex marriage. The law entered into force on 1 October 2017 and established full equality for same-sex couples. Since then, no new civil partnerships can be entered into; civil partners may opt for a conversion to marriage and same-sex couples not yet in a civil partnership may enter into marriage. Regarding inheritance and tax law, same-sex marriages will not differ from heterosexual marriages and civil partnerships.

Law stated - 1 September 2024

Heterosexual civil unions

Does your jurisdiction recognise any form of legal relationship for heterosexual couples other than marriage?

Other legal relationships for heterosexual couples do not exist.

Law stated - 1 September 2024

SUCCESSION

Estate constitution

What property constitutes an individual's estate for succession purposes?

For succession purposes, an individual's estate is constituted by their property (universal succession). Legal ownership determines whether an asset belongs to the estate. Debts and other liabilities, as well as the individual's interest, for example, in the co-ownership of an asset, are part of the estate to the extent that the individual was their legal owner.

Law stated - 1 September 2024

Disposition

To what extent do individuals have freedom of disposition over their estate during their lifetime?

Generally, an individual can dispose of their estate during their lifetime without restrictions. However, there are narrow exceptions to this rule: a spouse may enter into a contract on their property or on household articles only if the other spouse agrees to the contract.

An unsatisfied creditor may reclaim property:

- within 10 years if the property was disposed of to harm the creditor's interest;
- within four years if the property was gifted to a non-related person; or
- within two years if the property was transferred to a related person in circumvention of the creditor.

Law stated - 1 September 2024

Disposition

To what extent do individuals have freedom of disposition over their estate on death?

Generally, individuals can dispose freely of their estate by will or by a contract of succession. Thereby, an individual can:

- choose their heirs and provide what share each heir receives; or
- entitle a person to a legacy without making that person an heir. This legacy claim can be for an amount of money, a share of the deceased's estate, an item or anything else.

However, if spouses have entered into a contract of succession or a joint will and one of them dies, the surviving spouse may not rescind the contract or the will to change dispositions

unless the changes correspond to the intention that the spouses originally agreed to in the contract or the will.

There is a forced heirship regime, under which the following categories of relatives are entitled to make a claim for a compulsory share of the deceased's estate if they are excluded from the testator's will or if the share granted to them is less than their compulsory share:

- descendants;
- a spouse;
- a civil partner; and
- parents.

A relative's compulsory share under a will generally amounts to 50 per cent of the value of that relative's share on intestacy. It is a monetary claim and not a claim for a share of the estate.

If the deceased is not survived by any of these individuals, they can freely distribute their whole estate.

Law stated - 1 September 2024

Intestacy

If an individual dies in your jurisdiction without leaving valid instructions for the disposition of the estate, to whom does the estate pass and in what shares?

On intestacy, the order of succession is as follows (each of the following categories precludes the subsequent heirs from receiving a share of the deceased's estate):

- children of the deceased and, subordinated, their descendants;
- parents of the deceased and, subordinated, their descendants;
- grandparents of the deceased and, subordinated, their descendants; and
- great-grandparents of the deceased and, subordinated, their descendants.

Relatives within a particular category inherit in equal shares (succession per stirpes).

The surviving spouse (or civil partner) also has a right of inheritance determined by the applicable matrimonial regime.

Community of surplus

The surviving spouse is entitled to:

- 50 per cent of the inheritance if relatives in the first category (see above) survive; or
- 75 per cent of the inheritance if there are no surviving relatives in the first category but relatives in the second category survive.

Separation of property or community of property

The surviving spouse is entitled to:

- 25 per cent of the inheritance if relatives in the first category survive; or
- 50 per cent of the inheritance if there are no surviving relatives in the first category but relatives in the second category survive.

If there is a separation of property regime and the surviving spouse is entitled together with one or two children of the deceased, the surviving spouse and each child inherit in equal shares.

Law stated - 1 September 2024

Adopted and illegitimate children

In relation to the disposition of an individual's estate, are adopted or illegitimate children treated the same as natural legitimate children and, if not, how may they inherit?

Generally, adopted and illegitimate children are treated the same as natural legitimate children. However, if an individual is adopted after they have reached the age of 18, they are treated as a child of the adopter but not of the adopter's family. This can be important for maintenance and succession reasons.

Law stated - 1 September 2024

Distribution

What law governs the distribution of an individual's estate and does this depend on the type of property within it?

For successions on and after 17 August 2015, the conflict of laws rules of the EU Succession Regulation apply. They are valid in all EU member states except Denmark and Ireland. According to the Regulation, the deceased's habitual residence at the time of their death is relevant for the question of which succession law is applicable rather than their nationality. If it is obvious that the deceased had a closer relationship to another state, that state's law will apply under certain circumstances. There is, however, the opportunity to opt for the succession law of an individual's nationality by a will, a joint will or an agreement regarding succession.

In addition, provisions on legal jurisdiction, recognition and enforcement of decisions and authentic instruments, as well as on the European certificate of succession, are part of the Regulation. Generally, the legal jurisdiction shall be determined by the habitual residence at the time the individual died.

The Regulation is not applicable to trusts; hence, the respective national conflict of law regime applies.

Law stated - 1 September 2024

Formalities

What formalities are required for an individual to make a valid will in your jurisdiction?

There are two valid forms of will:

- a holographic will, which is handwritten, dated and signed by the testator; and
- a public will, which is signed before and certified by a notary public.

Neither form of will requires a witness.

A testator can also enter into a contract of succession with another person or a joint will with their spouse or civil partner. A contract of succession must be signed before and certified by a notary public (a handwritten contract does not meet the formal requirements).

Law stated - 1 September 2024

Foreign wills

Are foreign wills recognised in your jurisdiction and how is this achieved?

Germany recognises the Hague Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions of 1961 (the Hague Testamentary Dispositions Convention).

A will is valid if it complies with the law of any of the following:

- the state of the testator's nationality;
- the state where the testator made the will;
- the state of the testator's residence; and
- the state where the assets are situated (in the case of real estate).

According to article 75 of the EU Succession Regulation, the Hague Testamentary Dispositions Convention prevails over the provisions of the Regulation regarding the formal validity of a will.

Law stated - 1 September 2024

Administration

Who has the right to administer an estate?

A testator can appoint an executor at their own discretion. According to the German Federal Court of Justice, an executor does not have to be a lawyer, a tax adviser, a notary public or any other person who has to take out liability insurance.

An executor can ask the probate court for a certificate of executorship, which officially verifies their authority to act as executor.

German law gives broad powers to executors, but the testator can limit these powers. For example, an executor can be given the power to:

- distribute the estate;
- administer a single bequest; or
- administer the estate for a defined period of time (eg, until the date of the executor's death or until the naming of a successor executor who may be appointed within 30 years of the testator's death).

Law stated - 1 September 2024

Administration

How does title to a deceased's assets pass to the heirs and successors? What are the rules for administration of the estate?

The estate vests automatically in the heirs on the deceased's death. The heirs also administer the estate if an executor has not been appointed.

The deceased's will and other dispositions taking effect on death must be filed with the probate court (unless the documents are already in the court's custody).

The probate court will officially read the will and disclose its contents to the heirs.

After the will has been read (or, in the case of intestacy, immediately) the heirs can ask the probate court for a certificate of inheritance. The certificate specifies:

- the heirs' names;
- their share in the inheritance; and
- the executor's name if the testator has appointed one.

The certificate of inheritance gives the heirs the legitimacy to administer the estate if there is no executor. If the law of a foreign jurisdiction governs the succession, the probate court issues a certificate relating only to assets and property located in Germany.

The beneficiaries must file a notice of inheritance with the competent tax authority within three months of receiving the notice of succession. At the request of the tax authority, the beneficiaries (or the executor, if appointed) must file an inheritance tax return.

The estate is distributed in kind among the heirs according to what is agreed and there is no time limit for distribution. Until distribution, the estate remains joint property of the heirs.

Law stated - 1 September 2024

Challenge

Is there a procedure for disappointed heirs and/or beneficiaries to make a claim against an estate?

Heirs or beneficiaries cannot make a post-death variation.

Heirs or beneficiaries can challenge the validity of a will before a civil court.

If the court sets the will aside, intestacy rules will apply if there is no other valid will.

Under the intestacy rules, it is not possible for heirs or beneficiaries to challenge the adequacy of their provision.

An heir can sell their share in the estate after the death of the testator by entering into a contract before a notary public.

If an heir does not want to receive their portion of the estate, they must disclaim their right within six weeks of receiving notice of the death of the deceased and the inheritance. The time limit is extended to six months if either the deceased had their habitual abode outside Germany or the heir was abroad when the period began to run.

The disclaimer is made by a declaration to the probate court. The declaration must be made in the presence of, and recorded by, the probate court or be in certified notarial form.

Law stated - 1 September 2024

CAPACITY AND POWER OF ATTORNEY

Minors

What are the rules for holding and managing the property of a minor in your jurisdiction?

A minor can own assets. Usually, it is the parents' duty to manage these assets on the minor's behalf. The following rules apply:

- all contracts of substantial economic impact that are entered into by the parents on the minor's behalf and that establish an obligation of the minor (eg, sale or purchase of real property, sale or purchase of a business or of shares in a business entity and similar transactions) are subject to approval by the family court; and
- for specified transactions, particularly for contracts between the minor and their parents or other close relatives, the parents must not act on the minor's behalf. Instead, the family court appoints a legal guardian to act on the minor's behalf.

Law stated - 1 September 2024

Age of majority

At what age does an individual attain legal capacity for the purposes of holding and managing property in your jurisdiction?

Children under 18 years of age are minors. However, having legal personality, a minor can hold assets regardless of their age. Parents usually have joint custody of their child. Parents with custody administer the minor's estate, including their inheritance. If the minor and the parents are heirs of the same testator, it may be necessary to appoint a guardian to distribute the estate.

A testator can name in their will a person other than the minor's parents to administer the minor's inheritance. If the testator does not name a person, the court will nominate a guardian.

Law stated - 1 September 2024

Loss of capacity

If someone loses capacity to manage their affairs in your jurisdiction, what is the procedure for managing them on their behalf?

When a person loses capacity, a guardian is appointed to represent that person in all legal matters (under supervision by a court). The applicable law is that of the nationality of the incapacitated person.

A power of attorney is recognised in Germany if it complies with the law of the nationality of the incapacitated person.

Law stated - 1 September 2024

IMMIGRATION

Visitors' visas

Do foreign nationals require a visa to visit your jurisdiction?

EU citizens generally do not require any residence or settlement title to stay, work or settle in Germany.

Non-EU citizens, however, need a visa, a temporary residence permit or a permanent settlement permit to enter and stay in Germany.

Law stated - 1 September 2024

High net worth individuals

Is there a visa programme targeted specifically at high net worth individuals?

Germany does not have a visa programme targeted at high net worth individuals.

Law stated - 1 September 2024

UPDATE & TRENDS

Key developments

Are there any proposals in your jurisdiction for new legislation or regulation, or to revise existing legislation or regulation, in areas of law relevant to high-net worth individuals, particularly those coming to or investing in your jurisdiction? Are there any other current developments or trends relevant to such individuals that should be noted?

In the area of the Inheritance and Gift Tax Act, there is ongoing political discussion about the existing inheritance and gift tax privileges (mostly inheritance and gift tax exemptions

for business assets). There are demands for a narrowing or a complete abolition of these exemptions and even for the introduction of a flat tax. Further, two decisions by the German Federal Constitutional Court are expected in 2024 regarding the amount of personal allowances and the constitutionality of exemptions for business assets, which could lead to fundamental changes.

In addition, an expected decision by the German Federal Fiscal Court on the compatibility of German attribution taxation with EU law could lead to changes in German tax law in the future.

Relevant developments regarding private wealth and private client law in Germany were caused by the reform of the foundation law, which came into force on 1 July 2023 and applies not only to foundations established after 1 July 2023 but to all existing foundations. As a result of the reform, the hitherto federally fragmented foundation law was standardised and conclusively bundled in the German Civil Code. Further, a centrally managed public foundation register will be established on 1 January 2026.

In addition, the federal elections of 2025 are casting their shadow and could lead to new demands for tax reforms.

Law stated - 1 September 2024