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Commission calls out Germany on discriminatory conditions of investment deduction allowance

The European Commission decided to open an infringement procedure by sending a letter of formal notice to Germany for failing to comply with EU rules on freedom of establishment.

The Commission considers that Germany's investment deduction allowance, provided for in Section 7g Income Tax Act (ITA) discriminates against cross-border investments within the EU and EEA thereby unlawfully restricting companies' ability to operate across the Internal Market.

Under Section 7g ITA, small and medium-sized enterprises (SMEs) can deduct up to 50% of anticipated investment costs for movable assets. This privilege is subject to the condition that those assets are used exclusively in a domestic establishment. If the asset is transferred to a permanent establishment in another EU/EEA country within three years, the tax benefit is retroactively withdrawn.

This penalizes businesses that relocate assets or operations abroad, even when their worldwide income remains taxable in Germany. The automatic reversal of tax benefits when assets are transferred abroad disproportionately affects SMEs which often lack the resources to navigate complex cross-border tax implications, the Commission said. This adversely impacts economic dynamism, particularly in sectors reliant on mobile assets or international supply chains.

The Commission concludes that these rules deter cross-border economic activity and violate the freedom of establishment. Germany's rules also breach the EEA Agreement which extends the same freedoms to EEA Member States. The Commission is sending a letter of formal notice to Germany which has been given two months to respond and address the shortcomings raised by the Commission. In the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion.

Source: European Commission, [press release of 4 June 2026](#) (item 6).

Schlagwörter

[assessment procedures](#), [depreciation](#), [freedom of establishment](#)