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By PwC Deutschland | 06. Juli 2026

Federal Ministry of Finance: Recent Changes to the Application Decree for the General Tax Code

In a recent announcement, the Federal Ministry of Finance (MoF) has amended the Application Decree for the Tax Code -which was last amended by the MoF letter dated March 17, 2026 - effective immediately. The focus is on adjustments in the area of non-profit status.

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Specifically, changes affect the following sections of the German General Tax Code (GTC):

Section 51 (General Provisions), Section 52 (Charitable Purposes), § 55 (Altruism), § 56 (Exclusivity), § 57 (Directness), § 64 (Taxable Economic Enterprises), § 65 (Special-Purpose Enterprises), § 66 (Social Welfare), and § 67a (Sports Events).

Selected aspects of the new regulations in the MoF letter:

Section 53 GTC -Charitable purposes

Need for Assistance in the Event of Delayed Benefits: If benefits from third parties to which a person is entitled are paid with a delay, the affected individuals are to be considered in need of assistance for the interim period resulting from this delay. In this case, tax-exempt entities may provide interest-free loans for the interim period between the occurrence of the loss and payment by a third party.

Section 55 GTC –Selflessness

Use of Funds and Offset of Losses: Given that the entity's funds may only be used for purposes specified in its articles of association (for exceptions, see Section 58 GTC), offsetting a loss incurred in taxable business operations or in asset management generally constitutes a misuse of funds. Losses from economic activities or asset management may be offset only under certain conditions, such as when prior profits within a six-year period were higher (six-year offset). Losses may also be deemed harmless if they result from accounting losses or were caused by an economically justifiable decision.

Section 56 GTC - Exclusivity

The exclusivity requirement stipulates that a corporation is not eligible for tax relief if, in addition to its tax-privileged objective, it pursues other purposes and these purposes are not eligible for tax relief. In the context of asset management and taxable commercial operations, it follows that the maintenance of such operations precludes a corporation's tax-privileged status if, when viewed as a whole, they become an end in themselves and, in this sense, take precedence over the pursuit of the corporation's tax-privileged purpose.

If asset management or the economic business operation is not subordinate to the tax-privileged purpose but rather constitutes a separate purpose—or even the primary purpose—of the corporation's activities, then its tax privilege is precluded by § 56 GTC. In such a case, the corporation's activities cannot be divided into a tax-exempt and a taxable portion

Section 64 GTC - Taxable Economic Business Operations:

A holding in a tax-privileged corporation is to be classified as part of the non-profit sector if the tax-privileged purposes of the subsidiary in which the holding is held are included in the corporation's own tax-privileged purposes. The income from this holding is then not income from asset management, but rather income in the non-profit sector.

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Section 65 GTC – Special Purpose Enterprises

Protection Against Unfair Competition: The commercial operations must not compete with non-tax-privileged businesses of the same or similar nature to a greater extent than is unavoidable in fulfilling the tax-privileged purposes. In making this assessment, particular consideration must be given to local and regional differences, the customer base, and the goods and services offered. Economic activity must be limited to the extent unavoidable for fulfilling the tax-privileged purposes.

Source:

Further details on the remaining changes can be found in the MoF letter dated July 2, 2026 (IV D 5 - S 0170/00082/004/015).

Schlagwörter

General Tax Code, charities