

4. Land taxation in Germany¹

1. The basic framework of the German land tax

a. Legal basis

The legal basis of the German land tax is the federal land tax law (*Grundsteuergesetz*) of August 7th, 1973 (BGBL I, p. 965) and subsequent modifications. The tax code is uniform across the Federation although the tax is a municipal tax.² Municipalities are however entitled to “leverage” the land tax (see below for explanation), they collect the tax, and they appropriate its full proceeds. The administration of the tax is split between the State (for assessing the rateable value of the property and determining the appropriate “base rates” according to federal legislation) and the municipality (for applying a municipal leverage ratio as determined by the local council, and for collecting tax revenue). If a property extends over the territory of more than one municipality, the tax base is apportioned appropriately.

The object of the land tax is domestic land and buildings, including agricultural land and forests. Exemptions exist for public land (such as parks, cemeteries), land and buildings of public authorities, of the federal railways, of churches, hospitals, scientific and educational institutions, military compounds, and municipal corporations. The owner/beneficiary of the property is liable to pay the tax. The tax refers only to the nature and value of land. Personal circumstances of the owner/beneficiary are totally disregarded.

b. Tax base and rates

The German tax law is peculiar in that a “standard tax” (*Steuermessbetrag*) is determined by the State tax administration on uniform rules for all municipalities. This standard tax is obtained by multiplying the “rateable value” (*Einheitswert*) with a “base rate” (*Steuermesszahl*). The assessment is made for every single piece of land registered in the cadastre (*Grundbuch*). The State tax administration notifies the owner/beneficiary and the municipality in whose jurisdiction the property is located. Changes of this standard assessment are extremely rare and occur only in cases of sale or change in the use of the property (or change in federal legislation). For East Germany the procedure is slightly different in that more recent rateable values are not available (see below). The tax is therefore based on a “surrogate rateable value” instead.

The assessment of the standard tax by the State tax administration is the basis for levying the municipal tax. The municipality applies a “leverage ratio” (*Hebesatz*) to this standard tax. The ratios may vary among municipalities.³

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² In principle, municipalities do not have to levy a land tax, but all do.

³ It is difficult to speak of a “tax rate” for the German land tax. If the rateable value were considered the tax base, the conventional tax rate would be the composite of the base rate multiplied by the municipal leverage ratio. However, as the State administration assesses not only the rateable value, but also the standard base rate for the property, which together form

The land tax is thus calculated according to the formulae:

At the level of the State:

(Rateable value or surrogate rateable value) x (base rate) =
(assessed base value for tax purposes), with standard rules for all municipalities.

And at the level of the municipality:

(assessed base value for tax purposes) x (municipal leverage ratio) =
(assessed municipal land tax).

For instance, if the rateable value of a two-family house is € 40.000 (not an unrealistic figure), the base rate would be 0.31 percent, and the assessed base value for tax purposes € 124 per year. If the leverage ratio of the municipality is 300 percent, it would assess a municipal land tax of € 372 per year.

c. Two variants of the land tax

The law distinguishes two categories of land: agricultural land and forests; and other real property. This leads to two variants of the land tax: land tax A (for agricultural businesses and forestry), and land tax B (for other land, including improvements).

The tax base of land tax A includes all business-related objects that serve to maintain the agricultural or forestry business, not only land, but also buildings, machinery, and live-stock. This is why it is often seen to be, in effect, the “business tax of farmers”.⁴ Land tax B includes buildings and ancillary structures, but *not* machinery and business-related objects, even though they may represent fixed capital. Land tax B also covers leaseholds and owner-occupied dwellings.

The split of the land tax into two categories allows not only the separation of tax assessment and collection, but also the application of different leverage ratios to each variant of the tax. Variations of the leverage ratio for different types of properties *within* each tax variant are not allowed, but some differentiation occurs through the base rates.

d. Rateable values

The rateable value of land is determined by a specific federal law on valuations (*Bewertungsgesetz*). This law is not only the basis for assessing the value of the land tax, but also for all other property-related taxes (such as the (suspended) net wealth tax, or the gift and inheritance taxes).

According to the valuation law, the rateable value (*Einheitswert*) is defined as the “price that could be realized ... in the case of a sale” without regard to personal circumstances. The value includes buildings and ancillary structures, and in the case of agricultural land, machinery and live-stock.

Up to 1973 the rateable values were based on the totally outdated census data of 1935. In 1964 there was a comprehensive census in West Germany, which established rateable values for land in accordance with the law. Rateable values were obtained on the basis of capitalized

the basis of municipal taxation, the unconventional term of “leverage ratio“ is used instead of a tax rate.

⁴ In Germany, there is a separate municipal business tax for commercial enterprises, but not for farmers.

gross returns (rental income) or, where these were not available as in the case of owner-occupied dwellings, construction costs.

The values are established as follows:

- Land on the territory of West Germany is evaluated by its rateable value of 1964.
- Agricultural and forestry land on the territory of East Germany, the former German Democratic Republic (GDR), is evaluated by a surrogate rateable value (*Ersatzwirtschaftswert*) for 1964.
- Other land on the territory of the former GDR, for which a rateable value for 1935⁵ is available, is established at this value.
- For apartments and one-family houses on the territory of the former GDR built before 1991, and for which a rateable value of 1935 is not available, a surrogate assessment basis (*Ersatzbemessungsgrundlage*) is used. It consists of a monetary amount estimated at arm's length on the basis of square meters and conforming quality indicators.
- For dwellings on the territory of the former GDR built between 1981 and 1991 there was a 10-years' exemption from the land tax.

From 1974 on, the census data of 1964 were used in West Germany (with a general adjustment factor of 1.4 in order to account for price increases during the preceding decade). According to the law on valuations, the rateable value is to be updated every sixth year. But the census originally planned for 1970 never took place, nor were there any other revisions of rateable values. The 1964 data (price-adjusted for 1974) have thus been used until now without further update. In East Germany, valuations go back to the census year 1935. For new buildings and structures since 1964, valuation is done on the basis of costs at prices of the standard evaluation date 1974.

This treatment of land valuations has led to an unacceptable privilege of land owners compared to other forms of holding wealth.⁶ However there has been little inclination by federal and state politicians to alter the situation. This has to a constitutional challenge based on the equality-of-treatment clause of the Constitution. The Federal Constitutional Court forced the government to amend the tax law on inheritances and gifts as to the valuation of land,⁷ and to suspend the net wealth tax altogether from 1997 on. However the land tax remained unaffected by this ruling because *all categories* of land are undervalued similarly, which is less problematical in view of the equality-of-treatment clause.

e. The base rates

As mentioned before, the State tax office calculates the base value for tax purposes (*Steuermessbetrag*), and notifies the municipality accordingly. This value is established by

⁵ The last census of real estates prior to 1964 took place in 1935.

⁶ A study made by the Wissenschaftlicher Beirat beim Bundesminister der Finanzen found that the average rateable value was 1,231 DM/hectare compared to an average market (sales) price of 32,852 DM/hectare in 1996 (or less than 4% of market value).

⁷ For idle land the valuation used is established by the municipality (*Bodenrichtwert*), with an arm's length reduction of 20 percent (30 percent for industrial land). For business properties, the value is taken from the balance sheet (which is usually low because it is based on the purchase date). For constructed land the value is a multiple of the annual rental income, corrected by an obsolescence factor based on the age of the building. One- and two-family housing also benefits from a rebate of 20 percent.

law as the rateable value/surrogate rateable value multiplied by the base rate for tax purposes (*Steuermesszahl*). The base rates for tax purposes are uniform for all municipalities. They are:

- 0.6 percent for agricultural land and forestry.
- 0.26 percent for one-family houses for the first € 38,346.89, and 0.35 percent above this amount.
- 0.31 percent for two-family houses.
- 0.35 percent for other real estate with/without buildings.
- real estate on the territory of the former GDR evaluated by the (unadjusted) rateable value of 1935 is assessed with rates between 0.5 and 1 percent in accordance with the land tax law of 1 July 1937.

The differentiation of the base rates is motivated by social policy objectives. For instance there is an embedded incentive for (smaller or lower-cost) one-family dwellings and two-family houses. The higher rate for agricultural land is explained by two factors: a lump-sum correction for the usually low rateable value; and some compensation for the exemption from the business tax that non-agricultural businesses have to carry.

f. The leverage factors

At the local level, the base value for tax purposes is multiplied by a municipal leverage factor (*Hebesatz*). Municipalities are free to determine this factor. Therefore the effective rate of the land tax differs between municipalities. The land tax law fixes no maximum limit for the leverage.

Normally, there are two leverage factors to distinguish in accordance with the tax object: one for agricultural and forestry enterprises (land tax A), and for private and business real estate (land tax B). The weighted average of municipal leverage factors by State is found in Table 1.

**Table 1: The weighted average of municipal leverage factors
for the land tax by State**
(in percent, for the year 2000)

State	Land Tax A	Land Tax B
Baden-Wuerttemberg	320	332
Bavaria	323	333
Berlin	150	600
Brandenburg	229	342
Bremen	248	530
Hamburg	225	490
Hesse	263	320
Lower-Saxony	315	358
Mecklenburg-West Pommerania	233	343
North Rhine-Westphalia	202	401
Rhineland- Palatinate	277	328
Saarland	244	332
Saxony	280	385
Saxony-Anhalt	272	354
Schleswig-Holstein	250	303
Thuringia	227	324
National Average	278	367

Source: Federal Statistical Office.

2. Tax revenue

The share of the land tax relative to municipal tax revenue has been declining significantly over the last 50 years (34.8 percent in 1951, and 15.5 percent in the year 2000). This is mainly due to the outdated and basically unadjusted tax base. In particular, land tax A for agricultural land is virtually stagnating. Revenue of land tax B has been increasing somewhat due to alterations in the use of land (for instance through adding constructions) and consequent revaluations, and to a general increase of leverage ratios. But since the tax base does not include a price adjustment element (all prices and costs being discounted to 1974), the tax will never become buoyant without a major reform. Some reform proposals are discussed below, but they have all been put on hold.

The revenues of the land tax are found in Table 2.

Table 2: Revenues of the land tax (in € mill.)

	1997	1998	1999	2000
Land Tax A	328.7	326.7	327.9	332.8
Land Tax B	7,597.8	7,970.5	8,307.8	8,516.1
Total revenue of municipalities	48,273.1	53,749.5	56,333.9	57,136.2
<i>Land tax revenues in percent of total municipal revenues</i>	<i>16.4</i>	<i>15.4</i>	<i>15.3</i>	<i>15.5</i>
<i>Land tax revenue in percent of GDP</i>	<i>0.42</i>	<i>0.43</i>	<i>0.44</i>	<i>0.44</i>

Source: Federal Ministry of Finance; own currency conversions.

The reasons why politicians are reluctant to reform the land tax are mainly linked to their ineptitude to tackle complex valuation rules (which even made them abandon the net wealth tax altogether rather than reforming the assessment rules), and the fear of causing unrest because the tax is typically a cost element of housing rents. As most Germans live in rented dwellings, this poses an unnecessary political risk for federal politicians. Moreover neither the Federal nor the State governments have any interest in the tax because its yield falls exclusively to municipalities. Municipalities appear to be more accountable for the tax when using their leverage factors.

It is also important to understand that the land tax plays only a minor role in municipal budgets. Municipalities can count on the much more important business tax, on a share in the more buoyant personal income and value-added taxes, as well as on transfers from their respective State governments (and even some from the Federal government).

3. Tax assessment

At the beginning of the year, the municipality sends a land tax assessment to taxpayers. For taxpayers who have to pay the same amount as in the previous year, the municipality can assess the tax by public announcement. This is cheaper than an individual assessment, and therefore done more and more frequently. On the day of the publication the land tax is fixed, payable in quarters on February 15th, May 15th, August 15th, and November 15th. Upon request, it is possible to pay the tax in smaller amounts at other dates.

The person to whom the rateable value was attributed (normally the owner) is liable to pay the tax. In addition, the user of the property (usefructur) can be rendered liable to pay the tax. The owner is identified by the cadastre, and transfers of property are monitored by the property transaction tax where the notary is required to send a copy of the sales contract to the State tax authority.

The land tax is payable to the municipality. If a taxpayer does not pay in due time the municipality can levy fees and penalty supplements. Taxpayers can avoid this problem by automatic debit authorization. This allows the municipality to charge the amount directly to

the bank account of the taxpayer. Data on tax arrears are not available, but due to the low tax burden and automatic payment arrangements, arrears are insignificant in Germany.⁸

4. Reform proposals

The German land tax is clearly old-fashioned and based on data that have not (or only partially) been updated during a quarter of a century. Therefore eight years ago a Working Group of the Conference of State Finance Ministers was assigned the task of developing new rules for assessing the tax base of the land tax. Two models were discussed: (i) a simple tax on area (land and buildings); and (ii) a combination of land and building values. The first proposal found support only from Bavaria, and the majority vote was in favor of the second approach. Other proposals discussed (but not taken up by the Working Group) were a tax on the value of land only, and a tax on a combination of land value and building areas. Although the Group presented its findings in May 2000, neither the federal Legislature nor the States (through an initiative of the Second Chamber of parliament, the *Bundesrat*) have taken any step to start a reform.

Instead, the States of Bavaria and Hesse have proposed to transfer legislation of the land tax from the Federation to the States, which would end the uniform federal tax law allegedly required by a “uniformity-of-living-conditions” clause of the Constitution. The States would then be free to determine both the tax base (rateable value) and the base rates in accordance with their own preferences. If this proposal ever becomes reality, it is unlikely that the structure of the tax (with the rateable value as a base, the (then State legislated) base rates for determining the standard tax, and the municipal leverage ratios) would be changed because the Federation will insist on the need for a “framework law” that would define the tax structure uniformly, albeit not its elements in detail.

The two States also propose to transfer all other land tax competencies to municipalities, including the right to assess the tax based on (then State) legislation. It would end the split in the administration of the tax according to which the State assesses the rateable value and the base rates, and municipalities apply their leverage ratios and collect the tax.

Given the controversial nature of the proposals (the latter would require a constitutional amendment) and the unwillingness of politicians to tackle the intricacies of the German land tax in general, it is highly unlikely that these reform proposals will bear fruit in the near future.

5. Other land-based taxes

Other land-based taxes are the following:

- There is a tax on the acquisition of real estate, covering transactions of land (with or without buildings), parts of buildings, rights to build, rights to parts of buildings, etc.. The tax rate is 3.5 percent of the gross value of the transaction (purchase price). Vendors

⁸ There are a few cases of land tax arrears that are worth mentioning, but these were caused by inappropriate tax administration and uncertainties surrounding the taxation of land in the former GDR (East Germany). It is also noteworthy that municipalities in the East do not have an incentive to levy the tax due to the fact that their lack of own fiscal revenue is almost completely compensated by intergovernmental transfers.

and buyers are legally jointly liable to pay the tax, but most sales contracts stipulate that the tax be carried by the buyer.

The real estate transactions tax is a State tax, but municipalities may receive a share of the revenue according to State legislation. The total receipts of the tax were € 5.24 bill. (or 0.26 percent of GDP) in the year 2000.

- Prior to 1997, land was also taxed in the context of a net wealth tax at rates of 0.5 percent (0.6 percent for corporations). Following a ruling of the Federal Constitutional Court of May 22, 1995, the tax was declared unconstitutional. It was therefore suspended with effect from January 1997. A revised version of the wealth tax law is not intended at present.
- Land is also taxed within the context of the inheritance or gift tax (see text at footnote 7 above). This tax is a State tax in Germany.
- Finally, capital gains on land are taxed within the income tax and corporate tax laws. For businesses, all real property on the balance sheet is taxed at market values upon realization (or an assessed market-related value upon transfer into private property). For private individuals, the capital gains tax applies only for property sales realized within a time span of 10 years from acquisition. The tax base is the sales price minus the purchase price and property-related (and income tax deductible) expenditures incurred during that same period. There is an exemption for home owners who realize the owner-occupied home for reinvestment in another owner-occupied dwelling.