



# Start Your Business – **NOW**

your guide for success



Industrie- und Handelskammern  
in Bayern

## Did you know?



The Bavarian Chambers of Industry and Commerce offer a wide range of services and information opportunities for business start-ups. Just visit us, e. g. the Chamber of Industry and Commerce for Munich and Upper Bavaria:

- [ihk-muenchen.de/gruender](https://ihk-muenchen.de/gruender)
- [ihkexistenz.de](https://ihkexistenz.de) (Founder fairs IHK EXISTENZ in Upper Bavaria)
- [ihk-akademie-muenchen.de](https://ihk-akademie-muenchen.de) (subsidized seminars and workshops)
- [gruenden-in-oberbayern.de](https://gruenden-in-oberbayern.de) (free information events and advice)

as well as the offer of the other Bavarian IHKs:

- |   |   |
|---|---|
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**Please note:** For reasons of legibility, only the female or male spelling is used. It stands for both names.

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# Foreword

This is not only true in sports. According to a study of people establishing new businesses in Munich and Upper Bavaria, after four years every second founder of a new business has already given up and the causes often lie in inadequate preparation – they make typical, but avoidable beginner's mistakes. Self-employment takes not only courage and a good idea, but the right strategy, too.

The Bavarian Chambers of Commerce and Industry would like to offer you this booklet to provide support on the road to success from the very beginning. Over the following pages we will explain to you how with precise planning you can minimise the risks of setting up a business. We offer many tips, hints and suggestions from practice that will help you to solve the start-up problems that every company faces: for example, the race over the bureaucratic hurdles, the search for capital and investors, the hiring of employees or social security cover for the entrepreneur.

Of course, no matter how thorough your studies may be this booklet does not guarantee the economic success of your self-employed enterprise. It will, however, certainly help you to avoid the fundamental errors on the path to your own company. After that, it's up to you to turn your skills and ideas into increasing sales and profits. Our liberal, social economic system opens up a wealth of possibilities to you!

The Bavarian Chambers of Commerce and Industry will help you on your way to becoming a successful SME, group of companies or world market leader.

We congratulate you on your decision to start an enterprise of your own. Welcome to the exciting world of business!



Dr. Eberhard Sasse  
President  
Bayerischer Industrie- und  
Handelskammertag e. V.



Dr. Manfred Göbl  
Chief Executive Officer  
Bayerischer Industrie- und  
Handelskammertag e. V.

A handwritten signature in blue ink, appearing to read 'E. Sasse'.

Dr. Eberhard Sasse

A handwritten signature in blue ink, appearing to read 'M. Göbl'.

Dr. Manfred Göbl

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# 1. The entrepreneur and his or her environment

Taking the step into self-employment opens up great prospects: no more trouble with boss and colleagues ever again, greater freedom than in a job, the opportunity finally for every euro you earn to go into your own pocket and, finally, perhaps also to earn very well.

Of course, the greatest motivation should lie in the creative power of the entrepreneur: developing a good business idea and establishing it on the market, taking responsibility for oneself and one's own employees or expanding into completely new markets. Those who master these challenges experience a sense of achievement and self-realization to a degree that employees never experience.

These advantages come at a price, however: the self-employed do not receive a fixed monthly salary. They have a direct and personal contact with and sense for economic opportunities, but are also more exposed to risk, because the profits and losses of their company have a direct impact on their income. Entrepreneurs must therefore know their risks and have appropriate solution strategies ready, otherwise the establishment of a company turns into an incalculable game of chance. And luck is of course also part of a successful company start-up! With the right preparation, risks can be minimized and opportunities increased. Brickbats or bouquets – you can be the one to determine what awaits you once you have setup your company!

## 1.1 Entrepreneur: am I an entrepreneur type?

Film fans are familiar with the usual scene from the cockpit of an airplane: before take-off, the pilots check all the instruments through: if the systems are set to „go“, the flight can begin. In order to avoid a crash landing, anyone establishing a new company should also complete a „preflight check“. The first step in this process is a critical examination of one's own person. Answer the following questions as honestly as possible:

- Do I have sufficient self-discipline and stamina?
- Am I physically and mentally fit enough to cope with the challenges of being an entrepreneur?
- Am I also mentally capable of coping with times of crisis?
- Can I and will I do without regular working hours and holidays?
- What does my current financial situation look like?  
Do I have my own starting capital?
- Can I inspire others with my ideas?

The start-up portal of the Federal Ministry of Economics and Technology is one place offering a detailed aptitude test at [existenzgruender.de](https://existenzgruender.de)

No one proposing to start a new company should fail to consider such fundamental issues: business life places enormous demands on the company and on the entrepreneurs themselves. If you want to be successful in the long term, you need to have many qualities, skills and talents. Professional ability, expert knowledge, sales skills, decision-making power, a readiness to take on risk and to show commitment, as well as the necessary feel for the business – all these are the distinguishing features of a successful entrepreneur.

The following example may illustrate the importance of the „entrepreneur type“ for business success: More by luck than judgement, in 1886 the druggist John S. Pemberton found the ingenious recipe for success for a soft drink called „Coca-Cola“. However, he had no sense of the treasure he was holding in his hands. Pemberton barely sold more than 15 glasses of cola a day, gave up resignedly after a while and sold the rights to use his invention to a man named Asa Candler for a modest 2,300 \$. Candler had the necessary vision and entrepreneurial instinct, he immediately recognised the enormous potential of the recipe: within just four years he had trademarked the Coca-Cola brand and built up a distribution network for the whole of America. A short time later, with exports to Canada and Mexico he laid the foundation stone for the success of the Coca-Cola empire that is still such an example today.

## 1.2. Self-employment must pay off! But how?

To be rich and famous – not every self-employed person wants or will actually achieve such a life goal, but your own company should definitely pay off. Which sounds so simple ...

### An example



*Max and Anna know each other from university. After graduating, Max played it safe and now earns 3,200 € gross per month as an employee. Anna had always wanted to be her own boss and has a soft spot for fashion and textiles. She plans to launch an online shop with women's clothing and accessories. If she wants to earn at least as well as Max, she'll need a minimum monthly profit of 4,000 €. Extrapolated, this means an operating income of at least 48,000 € per year before taxes and social security contributions.*





tary business management knowledge and time and again even „turnover millionaires“ slip into bankruptcy.

Can it be achieved? The answer depends crucially on what turnover is necessary to actually achieve this profit. Initial guidance and support with the appropriate planning is provided by various intercompany comparison figures and industry statistics, which are also published for individual industries such as retail (Institute for Retail Research, [ifhkoeln.de](https://www.ifhkoeln.de)) or hospitality (Deutsches Wirtschaftswissenschaftliches Institut für Fremdenverkehr e. V., [dwif.de](https://www.dwif.de)).

The figures from the „Richtsatzsammlung“ of the Federal Ministry of Finance can also be a useful calculation aid ([bundesfinanzministerium.de](https://www.bundesfinanzministerium.de)). By the way, the average net profit in the German textile retail trade amounts to only about 16 % of achieved turnover, according to statistics. Accordingly, Anna would have to achieve an annual turnover of at least 300,000 € with her online shop in order to earn as much as her friend Max.

Average figures and statistics like these of course only provide an initial hint. Nevertheless, every business founder must ask him- or herself at the beginning of their planning whether the targeted or necessary business figures can actually be achieved in the foreseeable future. One should not indulge in illusion, and keep reality firmly in mind: the first years of independence are usually very hard for the entrepreneur! Turnover and possible profits in the beginning are generally not in any way proportionate to the time and cost invested.

Ultimately, only an individual, customised analysis can help the young entrepreneur. The Chambers of Commerce and Industry can provide valuable help and support; in addition to appropriate advice, they often also offer important detailed location-related information on the market and competitive structure or comparative or key figures from corresponding company comparisons, industry surveys and regional structural data collection.

### 1.3 Stumbling blocks, hurdles, obstacles

There are plenty of common obstacles to starting up a business which cause many good ideas to fail. This is also shown by various surveys and statistics among new businesses concerning the biggest problems in the critical start-up phase. Every second entrepreneur surveyed sees the greatest danger in financing issues that are difficult to solve, followed closely by complaints about the difficult balance between work and private life. Around one third suffer particularly from oppressive tax and bureaucratic burdens. It is worth noting that the founders of new businesses attach great importance to the lack of time

for a private life. Prospective entrepreneurs should therefore be aware of whether their relationship and family life can withstand the strain of starting their own business. If life partner and/or family aren't pulling in the same direction, it is usually difficult to maintain the motivation necessary for self-employment. See also our previous remarks on the entrepreneur!

Unfortunately, many self-employed people still fail due to a massive lack of training and information. Thus the simplest accounting obligations and tax rules are overlooked, the activities of the competition or actual customer needs are disregarded or the real chances of profit are overestimated.

Many entrepreneurs, who effortlessly avoid the initial pitfalls when starting their business, later come to grief over the following typical mistakes in financial planning:

- The amount of investment necessary is often underestimated, for example for the purchase of an initial inventory. In order not to drive up any debt still further, too little investment is often made. Many entrepreneurs come from the security of a permanent job. Faced with the rapid accumulation of debt in an initially uncertain income situation, they in many cases lack the necessary courage. After a successful start-up phase, there is suddenly a lack of capital for the company's expansion. The warehouse cannot be restocked, lucrative large orders cannot be pre-financed.
- Many entrepreneurs underestimate the financial consequences and length of the start-up phase. Mistakes in scheduling aggravate this problem. In all branches of the economy and industries there are typical seasonal curves over the course of time. Those who do not take this into account when opening a business will extend their „dry spell“. For example, it is more than disadvantageous to open a toy store on 2 January – the industry generates almost two thirds of its sales in the two months of November and December.
- In the initial euphoria, many founders lose track of interest payments and repayment dates. With classic bank loans repayment is frequently scheduled to start after just a few months – at a time in which most enterprises are still showing losses. Public financing sources are therefore frequently a better alternative as they often allow for more generous grace periods before repayment begins.

## 2. Business idea and business model development

### 2.1 The big idea

The secret of a good business idea lies in the formula „the right product at the right time in the right place“. The most promising ideas are those that guarantee a USP (unique selling point). With these kinds of propositions, there are no comparable products or services on the market in question. A good example of this is the development of the „DOS“ operating system by Bill Gates. The happy coincidence of all factors for success at the right time enabled him to establish his operating system as the worldwide standard software for the majority of PCs. Due to Microsoft's superiority, it is now practically impossible to bring a new PC operating system onto the market on a commercial basis.

Of course, good business ideas don't just grow on trees. Even with so called „dead certs“, for example from one's circle of friends and acquaintances, the highest level of caution is required. Fortunately, if you don't have your own big idea, there are other possibilities for making a successful move towards independence. These include, for example, franchising models in which the entrepreneur pays for the use of another's successful idea. In many cases it may also be advisable to make a part-time start on your existence as an entrepreneur, alongside another job; as long as the secure job is bringing in a living, the young entrepreneur can test out the implementation of his or her business idea with confidence. Taking over an existing business also has a reputation as being a safe route into independence.

### 2.2 Business succession and transfer

Taking over an existing business can be a real alternative to setting up a new company. But even this step requires careful planning, both on the part of the current owner and in particular on your part as the acquirer. You should consider the following points:

- The motive – for what reasons is the previous owner giving up the business? A good dose of scepticism is required here, because no one is going to give away a 'gold mine' just like that.
- The question of location (if relevant): has the quality of the location deteriorated in recent years or will it decline in the foreseeable future? Transport links, for example, are an important aspect. The redesignation of a street as one-way, the relocation of a nearby public transport stop, the departure of large authorities or companies which previously guaranteed a high number of walk-in customers, these all usually have fatal consequences. Will competitive conditions intensify in the foreseeable future – is there the threat of a wholesale

market or shopping centre opening in the immediate vicinity, for example?

- It is also important to take a close look at rental agreements. Several rent increases in recent years or an imminent rent increase are a clear warning sign. It should also be checked whether the current conditions of the lease can easily be transferred to the new business owner.
- In the course of the takeover negotiations, the previous owner will present the balance sheet for the past financial year. If this provides only selective information about the turnover obtained, particular caution is appropriate. High turnover can also be obtained, for example, through especially low prices. Customers are then happy to buy, but in many cases the business owner doesn't even cover operating costs with the revenues achieved. First indications can be gained from an examination of current pricing and/or comparative pricing with industry average prices. Please ask for a plausible explanation in the case of remarkably low prices!
- Critical evaluation of the profit situation: will the business be losing a (significant) proportion of its customer base when the current boss steps back and hands it over? Did the predecessor have many personal relationships that guaranteed turnover or particularly favourable purchase prices? Have important business data deteriorated recently or are they set to deteriorate? Strikingly low personnel costs are usually typical for a family-run company. If the person acquiring the business does not also have a large and willing circle of relatives, he must replace the missing support with „real“ and adequately paid employees. Possibly the previous owner has substantial personal capital funds and was able, for example, to settle all invoices with cash discount advantages. The operating costs resulting from the profit and loss account should roughly correspond to the average values of industry-relevant comparisons between companies.
- If the new business owner continues the name of a company registered in the commercial register, he is liable for all liabilities of his predecessor. This can be avoided by an appropriate note in the commercial register, the so-called „disclaimer“.
- With the takeover of a business, or parts thereof, the new owner also acquires all rights and obligations of existing employee contracts. There is a special ban on termination of contracts in this phase due to the „transfer of business“.
- If existing training contracts are also affected by the transfer of business, it is advisable to contact the training consultant of the respective Chamber of Commerce and Industry.
- In the case of a complete business takeover, the new head of the company is also liable for any „tax offences“ of the predecessor. This liability concerns, for example, any unpaid value added tax or wage taxes with regard to the tax authority and, with regard to the municipality, any business tax arrears. Even with relevant clauses in the sales contract,





this liability cannot be avoided. A serious vendor can provide the potential buyer with reassuring certainty on this point: the tax office and municipality will certify on application that no tax arrears exist. This certificate should also show that advance sales tax returns and wage tax returns have also been submitted in due time and in an orderly manner.

### Buy or lease?

There is no general answer to the question „Buy or lease? Instead, the advantages and disadvantages must be compared in each individual case. In principle, the lease of a business protects the equity capital of the entrepreneur, but in the coming years will involve regular high charges. The rent consists of three components: the standard local rent for the business premises and the fees for the use of the inventory and goodwill.

The lease option is particularly advantageous if the transferee has little equity at his disposal and gains a high value from the business inventory. In the service sector, the business inventory factor is of little significance – the size and quality of the customer base are what count here. In the retail sector, the takeover of a business usually results in high costs for the replacement of inventory. The costs for taking over the inventory are usually of very little significance in relation to this. Purchasing the company is then often the more advantageous alternative.

### Goodwill

There are large numbers of (theoretical) approaches to the topic „Determination of company value“, and many authors and experts have dealt with the subject. As a prospective self-employed person you can therefore choose: either you fight your way through the relevant treatises and grapple in depth with well-founded scientific calculation methods or you adhere to simple rules of thumb gained from practice. In any case: the law of supply and demand also regulates the price of a business!

When it comes to any purchase negotiations, the following also applies in principle: the smaller the company, the more the (previous) economic success depends on the person of the owner. In small retail businesses for example, the actual company value may exist, if at all, only on a short-term basis in the form of the existing stock and, if applicable, inventory. The only decisive factor for triumph or flop here is the diligence and talent of the owner.

## Good to know



*The IHK offers comprehensive support and services for business transfer and succession: see more at [ihk-muenchen.de/unternehmensnachfolge](https://ihk-muenchen.de/unternehmensnachfolge)*

## 2.3 Franchising – a special form of business start-up

Franchising is a special variant of going into self-employment. The term franchising is generally understood to mean a distribution system based on partnership, with the aim of promoting sales. The company, which acts as a franchisor, usually grants several partners, the franchisees, the right to operate a business on an independent basis with its products or services and under its name.

The franchisor usually offers an overall business concept which is implemented by the franchisee at his location or in his territory in the form of an independent enterprise. The franchisee is thus a legally independent and autonomously functioning genuine business operator. The franchisee's consideration for the rights granted by the franchisor usually consists of the payment of entry fees or franchise fees and the obligation to work the regional market.

The German Franchise Federation at [franchiseverband.com](https://franchiseverband.com) and the independent franchise expert network FranNet at [franet.de](https://franet.de), amongst others, offer initial guidance and decision-making assistance on the road to franchising.

## 2.4 Import and export businesses

Globalization, the euro and EU expansion will further strengthen the integration of the Bavarian economy with foreign markets in the coming years. This is a breeding ground for promising business ideas in the import and export sector. The legal framework for import and export business is provided by the Foreign Trade and Payments Act (AWG) and the Foreign Trade and Payments Ordinance. According to this framework, in principle every business operator can import almost all industrial products worldwide without a license, irrespective of the country of origin, purchasing country or country of origin. As a reference work for importers, the so-called import list is indispensable. It provides information on which products may be imported simply, with conditions or not at all. The customs declaration for the goods is made at the same time as the import declaration.

The same basic conditions also apply to exports: here there is the so-called export list and the export declaration.

Particularly practical for newcomers to import and export: within the EU internal market, customs documents are no longer required for goods located in what is known as the free movement of goods zone. Goods that have either been manufactured in the customs territory of the EU or already cleared and taxed on import into the customs territory of the EU are in free circulation within the EU.

Business operators seeking to gain a foothold in foreign markets or to increase their export share must have at least a basic command of export business. This includes the following requirements:

- Knowledge of customs and foreign trade law
- Sufficient knowledge of sales channels, the submission of quotes abroad, the conclusion of export contracts and the formulation of delivery and payment terms and conditions
- Knowledge of export financing opportunities and of state and private export credit insurance

The Chambers of Commerce and Industry are the first source of information for the above-mentioned requirements and for all other questions relating to international business. In cooperation with the Bavarian Ministry of Economic Affairs, the Bavarian Chambers of Commerce and Industry offer practical foreign trade promotion measures. These measures are primarily aimed at finding customers and business partners abroad.

The „Außenwirtschaftsportal Bayern“ (Bavaria Foreign Trade Portal) provides all the essential information and contacts on international business. It is offered by the Bavarian Chambers of Commerce and Industry and Chambers of Trades and Crafts, which substantially facilitate entry into the world of the import and export business and can be found at [auwi-bayern.de](https://www.auwi-bayern.de).

to be able to change and adapt like no other trend has done before. Shopping via Amazon, eBay and the rest has become a matter of course for the consumer; the shopping and information habits of customers have changed enormously and online trade is slicing off ever bigger chunks of the market for itself. While existing retailers are faced with the challenge of adapting to these changes, setting up a business in Internet retail offers particular opportunities in the area of e-commerce.

### Good to know



*The IHK offers comprehensive services and information for entering online retail: visit us for example at [ihk-muenchen.de/ecommerce](https://ihk-muenchen.de/ecommerce)! Here you will find an e-commerce guide as well as our planning tool „E-Commerce-Canvas“.*

## 2.5 E-Commerce – selling well online

The retail trade in particular is accustomed to constant change. First came self-service, then huge speciality stores and shopping centres settled on greenfield sites. For some years now, it has been the Internet that has required business operators

## 3. Planning the business start-up: first steps

### 3.1 External success factors

Even the best business ideas need a start-up-friendly environment in order to thrive. One important factor, for example, is the general economic trend: phases of declining domestic demand and weak economic growth are an extremely poor basis for starting a company.

A comprehensive analysis of the sector in which the business start-up is to take place is also of great importance. Due to fierce cut-throat competition and rapidly changing trends in consumer behaviour, new businesses in the catering and retail sectors in particular are often forced to struggle with start-up difficulties. In this context, many founders overlook the importance of the question of which target group they want to reach with their products and services. Once these have been defined, the entrepreneur can move into the exciting field of sales psychology and is faced with a multitude of further questions because age, lifestyle, purchasing power, mobility, information behaviour and much more regarding the potential clientele must be determined as precisely as possible. This leads to important conclusions, e.g. for site selection, marketing, product range and investment needs.

Every prospective entrepreneur should know as much as possible about these external influencing factors. There are plenty of sources of information for this: in addition to the Internet, Chambers of Commerce and Industry, offices of statistics, district administration offices and town halls, business associations, opinion polling and market research bodies, specialist literature and periodicals, and not least also banks and insurance companies, are all sources of information for the data needed.

### 3.2 Site selection

Top location = top business success: This rule of thumb applies above all in the retail trade and in the hospitality industry. According to the statistics, these types of start-ups are much more stable in urban areas than in structurally weak rural regions.

The question of location can therefore be of existential importance for business start-ups. But in times of digitalisation and globalisation, has this question of location lost its significance? Experience gleaned from the start-up stronghold of Munich shows just the opposite! Numerous high-tech clusters and innovation centres have formed in the vicinity of the city: genetic engineering and pharmaceutical companies are seeking locations close to research and scientific institutes, software developers want to be near to leading IT groups and the inno-

vative start-up scene thrives on direct contact with venture capital companies and the close-knit start-up network.

The choice of location is often a long-term decision. Rental and lease agreements cannot be easily terminated. Relocation may involve high costs. Every prospective entrepreneur should therefore think carefully about where he wants to place his business. Decisions made "from the gut" or based on feeling are not to be trusted. The only correct way is a careful location analysis on the basis of the following economic considerations:

- How large is the catchment area and the number of potential customers?
- How high is the purchasing power of the inhabitants?
- What turnover can be achieved at this location?
- Realistic assessment of competitive conditions: how many and, most importantly, how many large competitors are there in the vicinity of the location? How attractive is their product range?
- Is the planned location of the company competitive in the long term? This includes aspects such as visibility, transport connections and, especially in conurbations, local public transport connections. Are there sufficient parking spaces? Is the shop easily accessible for pedestrians?
- Is it possible to find suitable and affordable employees?

The trickiest of all questions is the examination of whether the rent or property price to be paid is in reasonable proportion to the expected turnover. The self-employed person, especially in retail or gastronomy, is often faced with a dilemma here: the top locations promise high sales, but scare off potential takers with horrendous prices for space.

On the outskirts of the city and out in the surrounding region rents may be lower. Without high advertising expenditure, however, hardly any business will be able to attract customers there. This can even be advantageous for certain sectors: save on rent and spend a lot of money on advertising instead - this opens up good opportunities for providers of standardised mass products, for example!

A valuable decision-making aid in this regard can be a location report, e.g. from an independent consultant. Even when it comes to subsequent important strategic decisions, it usually makes sense to call in a management consultant. By the way, the federal and state governments promote such advice with high subsidies: the Chambers of Commerce and Industry will provide detailed information about the relevant grants on request. In any case, the entrepreneur must weigh things up with precision: the advantages of a location should always and clearly outweigh its disadvantages.

Rental agreement: fixed-term rental agreements (usually

5 years or more) are often offered, particularly when new companies are being set up: this is strongly discouraged, as the tenant in such cases has no opportunity to prematurely terminate the agreement. The situation of the commercial enterprise in particular will frequently not be accepted as a reason for termination without notice, since the operating risk lies solely with the tenant. If, on the other hand, a rolling rental contract with no defined time period is concluded, there is a reasonable right of termination with a notice period of 6 months (note: the notice of termination must be received by the landlord no later than the third working day of a calendar quarter, the rental relationship then ends at the start of the next calendar quarter. Example: cancellation received on 2 April, tenancy ends on 30 September.) If a temporary tenancy is desired, an extraordinary right of termination should be included in the contract with the proviso of being able to terminate the business lease with due notice when the business is closed down. For this reason, you should first seek general information from the Chamber of Commerce and Industry or obtain legal advice from a lawyer before concluding a rental agreement.

### 3.3 Business premises

Many start-ups face the challenge of procuring suitable business premises. It is well known that even apple founders Steve Jobs and Steve Wozniak tinkered with their first computer in the garage next to Jobs' parents' house. Of course, this model from sunny California cannot easily be applied to everyone.

Private apartments and rooms are only suitable as business premises in exceptional cases. In rental flats nothing can happen without the consent of the landlord in any case. In certain regions, the district administrative authority must also give its approval, namely if more than half of the available apartment is to be used as business premises. Depending on the type and extent of the planned change of use, a special permit must also be granted in accordance with the Bavarian Building Regulations. Development and land use plans of the respective city or municipality must also be taken into account. In purely residential areas, it is almost impossible to establish a commercial enterprise, or it is only possible with severe restrictions. Companies with significant noise and exhaust emissions can usually only be operated in specially designated business and industrial parks.

The employment of staff further exacerbates the problem – the premises of the new company must then also meet the requirements of the „Workplace Ordinance“. This regulation controls, for example, minimum room sizes, number of windows, toilets, social rooms, etc..

The premises of grocery stores and catering establishments must comply with the applicable hygiene regulations. This sounds obvious, but in practice it regularly leads to conflict between companies and the trade inspectorate, not only in the event of infringements. So be careful! If you „blindly“ start to convert an apartment into a „business suitable“ apartment or to convert it into a „business space“, you may encounter a number of legal problems. It is therefore essential to inform the building authority, trade office and trade supervisory board in advance – if you have a written preliminary decision in your hand, you can start to build up your business without stressing about the authorities.

### 3.4 Your business plan

As important as all preliminary considerations and information collections are, at some point the time will come to define your goals and bundle the individual plans into a conclusive strategy for success. The tool for this is the business plan! You create it primarily for yourself; in this way you create clarity and plannability in the implementation of your idea and keep one eye on your goal. But of course it is also an essential basis and prerequisite for a multitude of occasions: it is the foundation for the successful completion of negotiations and consultations with banks and potential investors, with Chambers of Commerce and Industry and with management consultants.

Many business start-ups shy away from such discussions and perceive criticism or even doubts about their own business idea as petty and inappropriate – only to pay expensive and unnecessary costs for the lesson learnt later in practice. That's why you should take advantage of all opportunities for consultation and negotiation, it forces you to solidify your own goals and plans, to mould them into a coherent business plan. If the entrepreneur succeeds in developing a detailed success strategy in his business plan and obtains the approval of professional consultants for this, he has passed his first maturity test as a business operator.

A business plan usually comprises the following essential components:

- Executive summary
- Business idea
- Entrepreneur profile
- Market assessment
- Competitive situation
- Marketing and sales
- Suppliers and advance services
- Location
- Company organisation and personnel management

- Risk analysis and a comprehensive
- Financial plan for the start-up period and company development in the first three years, consisting of a sales and earnings forecast (profit and loss planning), a liquidity plan and the capital adequacy plan.

You will find relevant templates and planning aids at [ihk-muenchen.de/businessplan](https://ihk-muenchen.de/businessplan).

### 3.4.1 Starting point: profit planning

Every founder of a new business will, indeed must, have the goal of at least securing his or her own livelihood with the income from his or her business. Whereby several variants are conceivable:

- A spouse stays in a permanent job and the family's livelihood can be earned from this. If the new enterprise makes only small profits or even losses, this does not immediately endanger the material existence of the entrepreneur and his or her family members.
- In the absence of other sources of income, the founder of a new business must make his or her living and, if necessary, that of the family, from the income of the business from the outset.
- The business start-up can (initially) also take place parallel to an existing job, i. e. as a sideline, for example with the aim of first testing the market opportunities of one's own business idea.

As different as the starting conditions may be: in the long run, every company must make a profit, otherwise self-employment makes no economic sense. Without appropriate remuneration for work and entrepreneurial risk, self-employment becomes an expensive hobby.

The company profit is derived from the annual financial statements. In order to be able to evaluate this profit appropriately, the bare view of the profit and loss account is not sufficient. The so-called imputed costs must also be considered, namely:

- The entrepreneur's salary (= practically a notional salary that the entrepreneur would receive as an employed manager of his company), which must at least secure his livelihood;
- An appropriate return on the capital invested.

#### Entrepreneur's salary (minimum profit)

In addition to the at least partial coverage of one's own standard of living required – depending on the initial situation – other factors play a not inconsiderable role in determining the

minimum profit, especially in direct comparison with the secure income from a permanent job:

- In our system of statutory social security cover, the employer bears a substantial share of the relevant contributions;
- In addition, there are usually various ancillary wage and salary costs such as contributions to a company pension scheme, continued payment of wages in the event of illness and various social benefits.

The self-employed person must take on these contributions himself or do without them altogether. Even if only the statutory social benefits are taken into account, the entrepreneur must regularly earn significantly more income than the employee in order to achieve a comparable standard of living.

However, a company only offers a sustainable livelihood if the profits achieved are also sufficient for the following objectives:

- Preservation of the company's substance,
- financing of appropriate business growth, creation of sufficient reserves to hedge against operational risks.

#### Return on equity

If the entrepreneur puts his own money into the business, it should also generate corresponding interest. Otherwise he could better choose other investment alternatives for his money. The profit must therefore at least cover the interest of long-term investment forms such as bonds. Since investments in one's own business entail greater risks than the purchase of bonds, the return on the capital invested should be significantly higher.

### 3.4.2 Costs/expenditure

Costs are not the same as expenses. An example of this is depreciation (in tax terms = deductions for wear and tear). Depreciation only becomes expenditure when the time comes to make a new acquisition after a few years. The entrepreneur can temporarily dispense with covering these costs, but must ensure that he has the necessary funds at his disposal at the time of the new acquisition.

Repayments for loans taken out count as expenditure, but not costs. In the case of the repayment of investment loans, the instalments are paid from the amounts released by the depreciation. In the case of loans for goods, repayment can either be made from accrued profits or rescheduled by means of corresponding current account or supplier loans. A basic distinction must be made between fixed and variable



costs. Fixed costs include, for example, rent for business premises, insurance premiums, interest on loans, etc. These costs are also incurred if no or only low sales are achieved. In addition, the company incurs variable costs such as material and goods usage which are variable because they depend on sales.

As a rule, profits can only be achieved if the entrepreneur has the costs „under control“. This requires appropriate planning and control. Fixed costs such as rent are easy to determine and control. The same applies to personnel costs, with appropriate planning.

Besides these, however, there are areas such as daily office and communication needs, for which the entrepreneur must first estimate the costs to be expected. Assistance here is provided in particular by inter-company comparison figures, official cost structure statistics or internal statistics from industry and trade associations. As a rule, their results are based on the data of many companies from the relevant sectors.

Business comparisons not only provide a solid basis for a realistic cost estimate, they are also a control instrument for the management of the business; if certain costs are well above the industry average, this is an alarm signal and possibly a first indication of inefficient operating procedures.

However, the figures and data from such business comparisons must regularly be put into perspective:

- These are always average figures: with smaller and younger companies the costs may lie significantly above or below the average values.
- Regional differences are not taken into account.
- The number of participants in the various inter-company comparisons varies considerably. Therefore, their results are not always representative.
- Some core data, such as information on business rents, are often based on old contracts concluded under relatively favourable conditions. They are therefore of only limited informative value.

## Good to know



*Business comparisons can provide valuable clues for your own planning, but are no guideline for your own entrepreneurial actions. The IHK acts as a first source of information for various business comparisons e. g. for the retail trade or hospitality industry.*

## 3.4.3 Turnover/revenue

Without sufficient sales, there will ultimately be no profit. Many business founders are enthusiastic about the uniqueness of their own business idea, but often overlook this simple but so important business rule. In order to avoid flying blind, the prospective entrepreneur should first calculate the minimum profit he needs to cover his living expenses. The second step is the calculation and addition of the expected operating costs. The minimum turnover that the company must achieve in order to be profitable for its founder and to be worthwhile for him is derived from the comparison of minimum profit and costs.

In this regard there is a second basic rule, which absolutely must be taken into account: high costs and a costly private life-style increase the need to do good business and make good turnover as quickly as possible. Entrepreneurs should therefore not necessarily make the acquisition of that coveted luxury limousine or villa on the lake their priority goals.

One of the most difficult, and at the same time most important, tasks of any person starting a new business is to make as realistic a sales forecast as possible: if the company remains significantly below the targeted business volume for a lengthy period of time, it usually has no chance of survival!

One approach to creating the most realistic plan possible is to estimate the expected turnover on the basis of the inter-company comparisons mentioned above. Pitching things realistically also enables the tax authorities to collect what is due at the appropriate rate. The tax authorities use this instrument to estimate the profit of business operators who do not submit proper accounts. Standard rates are available for almost all economic sectors and types of business. They contain information, for example, on the %age ratio of gross and net profit to turnover. See again [bundesfinanzministerium.de](https://www.bundesfinanzministerium.de).

## An example



*Moritz wants to open a health food store. He first calculates how much profit he needs to secure his livelihood and comes up with a sum of 2,500 € per month. In order to find out what turnover he has to generate with his business in order to achieve this profit target, Moritz uses the reference rate collection for business operators. He takes the following from the statistics of the Oberfinanzdirektion: on average, natural food shops achieve a net profit of 14 % of turnover. For Moritz this means, in concrete terms: he must achieve a turnover of around 17,850 € per month and a good 214,000 € per year, so he needs an average daily turnover of around 745 € in order to survive economically in the long term.*



It should be stressed once again that such sample calculations based on statistical averages and figures do not take into account the particular circumstances of each individual case. If Max opens his store in Munich's Maximilianstrasse, no average value will help. Extraordinary income is needed here to cover the high shop rents.

In most cases it is therefore better to determine the turnover required to reach the profitability threshold on the basis of your own data and specifications: simply add the necessary profit and the expected costs. Please note: in the case of a service company, the turnover/revenues must cover the corresponding sum; in the case of a trading company, for example, the gross profit, which in turn results from the difference between purchase and sales prices, is sufficient. Comparisons between companies and a collection of reference rates provide an initial overview of the average gross earnings in the respective sectors.

Once the company founder has gained clarity about the necessary turnover, the final and decisive step follows: Moritz and all other prospective entrepreneurs must now find out how much turnover can actually be achieved. While this is often done with the help of a location analysis in fixed location retail or gastronomy, in product manufacturing or in most service areas it is impossible to avoid carrying out a comprehensive market and competition analysis, e.g. on the basis of market research results.

One important factor here is the capacity of the prospective company. In retail, for example, the available sales area is the measure of all things: anyone taking over a „corner shop“ will not generate sales in the millions. And there are also capacity limits on the manpower that will limit turnover.

A start-up will only succeed if the realistic business expectations correspond with the size of the company. In the long run, overcapacities endanger even large companies, and in no time at all they become a disaster for founders of new businesses. In view of the high rental and personnel costs that are customary in Germany, it is more advisable in case of doubt to choose the „smaller dimension“ for the start-up at first and thus hopefully achieve secure profits more easily and quickly. If the business flourishes, a later expansion of the business is still possible and sensible.

### 3.4.4 Liquidity plan

A company must always be able to pay its debts, i.e. be solvent. Otherwise it has no chance of survival. A successful business strategy must therefore include liquidity planning. On the one hand it is an important control and steering instrument to avoid mis-developments in the company. On the other, it is a mandatory prerequisite for successful financial negotiations with banks and other investors.

A company is liquid if it can settle its expenses at any time with sufficient income, capital reserves or a corresponding credit line. Liquidity planning is therefore one of the company's ongoing tasks. If it is neglected, even large corporations fail, as many examples from the global economy show.

The third year after the company was established is a critical time for every young business: many fall into a liquidity trap during this particularly critical phase.

It is then difficult to avoid company bankruptcy. The reasons for this are the following factors:

- The first financial year ends with a small loss.
- In the second, the balance sheet/financial statements for the first financial year are prepared. Due to the previous year's loss, the company pays no or only small tax prepayments in the second year.
- In the third year, the balance sheet/financial statements for the second financial year show a profit for the first time. As a result, subsequent payments for trade and income tax are due, and at the same time the amounts for advance tax payments increase. In addition, repayments for public development loans often begin at this time.

The liquidity trap in the third company year thus arises from the coincidence of the following factors: repayment charges for income tax and trade tax, as well as additional and advance payments.

There are only two ways to overcome this hurdle: The timely creation of capital reserves or a corresponding increase in the credit facility. Here, too, the liquidity plan is an indispensable foundation. It is advisable to separate the columns for target and actual values. This facilitates ongoing control over the company's financial position.

### 3.4.5 Ensuring long-term success

A business has the best chances if the achievable turnover is well above the necessary level: this opens up sufficient financial scope to fulfil the three prerequisites for the company's lasting market success:

- Creation of reserves
- Preservation of assets
- Growth

The decisive factor here is, of course, the amount of business profit achieved after tax.

#### Creation of reserves

If the self-employed person has enough leeway, he can build up reserves. This is important for every company in order to master unforeseen crises. An example of this is a temporary but painful slump in retailers' sales due to roadworks in front of the store or the sudden failure of a planned major order.

#### Preservation of assets

The profit achieved must also flow into the maintenance of the company's substance. This is about solving the following problem: only the purchase prices of assets can be counted in depreciation for tax purposes. As with all consumer goods, however, prices for machines and equipment for example in the commercial sector are also constantly rising. If the company forms its reserves exclusively from depreciation, a financing gap arises and the funds necessary to purchase the new machines and equipment re-quired after a few years will be lacking.

#### Growth

Carefully planned and appropriate growth is the hallmark of every successful company. In order to grow, the entrepreneur needs equity capital above all. In most cases, it is neither advisable nor possible to finance the company's expansion through bank loans.

## 4. Business start-up planning: general conditions



The foundation of a company touches many areas of law: in addition to general areas from the German Civil Code (BGB) or e. g. the General Terms and Conditions Act (AGB-Gesetz), tax law, commercial law, tenancy law, labour law, information obligations for the design of the company homepage, patent and trademark law, etc. are also relevant. Before starting your business, you should therefore carefully examine which legal areas you may be affected by and, if necessary, fill any gaps in your knowledge.

### 4.1 Economic freedom and assignment of activities

In Germany, the principle of economic freedom applies. Economic freedom in the sense of the "Gewerbeordnung (GewO; German business code)" means that basically everyone, be it a natural person or a legal entity, has the right both to take up a new business activity and to continue the business undisturbed once it has begun. As a rule, it is therefore not necessary to obtain a permit before commencing a business activity and it is not necessary to prove any specialist knowledge. Rather, there is in principle a simple requirement to notify the business authority which certifies receipt of the business notification by issuing a business licence (Gewerbeschein). Economic freedom, however, is subject to federal and/or state restrictions or exceptions that require a licence before commencing certain business activities. Moreover, economic freedom only affects the „whether" and not the „how" of the business activity, so that business operators naturally have to observe a number of regulations which relate to the exercise of the business.

The state relies on the personal responsibility of the business operator and the healing powers of the market. Poorly qualified and dubious self-employed persons have no chance in competition. A solid vocational training, attending advanced training courses combined with one or more company internships are therefore indispensable preconditions for a successful entrepreneurial career.

Economic freedom applies in principle to the entire wholesale and retail trade as well as to trade with food and cosmetic articles. In individual cases, however, special licensing regulations may exist, e. g. for trade with over-the-counter medicines as well as the commercial breeding and keeping of pets, trade with vertebrate animals (except agricultural livestock), the maintenance of an equestrian business in the sense of the Animal Protection Act as well as the display of animals. Wholesale and retail trade can also be carried out simultaneously, but please note: wholesalers may only call themselves wholesalers if they

actually operate a wholesale business. Otherwise, this is a violation of competition law. A retail outlet can also be combined with the provision of services such as the installation, maintenance and repair of technical equipment. However, the border to trades and crafts with the special requirements of the trades and crafts code (Handwerksordnung) must not be crossed.

#### 4.1.1 Businesses requiring supervision

For some branches of industry, the so-called „businesses requiring supervision", the legislator provides for an increased need for supervision by the business inspectorate in order to protect customers from dubious or even criminal providers. This includes certain used goods dealers, credit agencies, detective agencies, marriage and dating agencies and travel agencies. In these lines of business, special requirements are placed on the person of the subcontractor. The business operator must prove his personal integrity with a police clearance certificate and an extract from the central business register. The police certificate of good conduct as well as the information from the central business register must be applied for immediately after registering the business with the responsible municipality of residence for subsequent submission to the authority.

#### 4.1.2 Businesses requiring authorisation

Even higher requirements must be met by operators of so-called „trades requiring authorisation", i. e. if the practice of the trade may affect legal interests that are particularly in need of protection. The prerequisites for obtaining a trade licence in these areas are usually the personal reliability of the applicant as well as orderly finances. In some cases, proof of relevant expertise is also required, e. g. in the form of specialist examinations or many years of activity and/or proof of professional liability insurance. Examples of trades that are subject to the „licensing requirement":

- Supply of temporary workers
- Pharmaceuticals (wholesale trade, import/export, manufacture)
- Operation of banking transactions in accordance with the German Banking Act (KWG)
- Operation of restaurants serving alcoholic beverages
- Provision of financial services in accordance with the German Banking Act (KWG)
- Security services
- Driving schools
- Financial asset brokerage and fee-based financial asset advisory services

- Carriage of goods by road by motor vehicles with trailers having a maximum permissible weight exceeding 3.5 tonnes
- Amusement arcades and similar premises
- Carriage of passengers
- Pawnshop business
- Private hospitals
- Activity as real estate agent
- Activity as property developer and/or construction supervisor
- Activity as loan broker within the meaning of § 34c GewO
- Activity as real estate loan broker within the meaning of § 34i GewO
- Insurance brokerage and consulting
- Auctioneer trade
- Arms production and trade

We have compiled the following information for you on the most important and most common trades subject to licensing.

### Catering industry

The catering industry plays a special role. If you want to run a restaurant business serving alcoholic beverages, you need a restaurant permit. In addition to proof of reliability on the basis of a certificate of good conduct and an extract from the central commercial register, the prerequisite for the granting of this permit is participation in a training course at the Chamber of Commerce and Industry on the provisions of hygiene and food law. In principle, accommodation establishments are not subject to the obligation to obtain a permit according to the German Restaurant Act, unless they serve alcohol and the bar is not restricted to house guests only.

The restaurant permit is a personal and premises-related permit, i.e. it also requires a corresponding building permit for the restaurant in the intended operating form. Otherwise, the prospective restaurateur requires neither relevant professional experience nor further proof of expertise.

### Insurance intermediaries and consultants

Self-employed insurance brokers and advisors are also subject to an obligation to obtain a permit in accordance with the business regulations and must be registered in a publicly accessible register of brokers (see [vermittlerregister.info](https://www.vermittlerregister.info)).

The Chambers of Commerce and Industry are responsible for granting permits and registration. A prerequisite for the granting of authorisation are proofs of

- reliability,
- orderly finances,
- professional indemnity insurance or an equivalent guarantee, and
- the appropriate expertise.

So-called „tied insurance intermediaries“, which operate exclusively on behalf of one or, if the insurance products are not in competition, several insurance companies, do not require permission if the insurance company(s) assumes unlimited liability for them. However, tied insurance intermediaries must arrange for their registration in the intermediaries' register via the insurance company assuming liability for them.

### Financial investment intermediaries and advisors

A commercial licensing obligation also exists for financial investment brokers within the meaning of Section 34f of the German business code (GewO), i.e. for business operators who operate the investment brokerage of/ investment advice on open and/ or closed investment assets within the meaning of the German Investment Act (KAGB) and/or investments within the meaning of the German Investment Act (VermAnlG). A fee-based financial investment advisor is also required to obtain a permit in accordance with § 34h of the German business code (Gewerbeordnung), subject to the same licensing requirements.

In addition to reliability and orderly finances, financial investment brokers and fee-based financial investment advisors as well as insurance brokers and advisors must prove the existence of professional indemnity insurance and the corresponding expertise. In addition, financial investment intermediaries and fee-based investment advisors active in the market must be entered in the register of intermediaries.

### Real estate loan brokers

business operators who broker the conclusion of real estate consumer loan agreements or corresponding financial assistance against payment, or who wish to advise third parties on such agreements, require a licence as a real estate loan broker in accordance with § 34i of the General Regulations. Authorisation requirements here are once again proof of reliability, orderly finances, professional liability insurance or equivalent guarantee as well as expertise. In addition, the permit is linked to the condition that the business operator has his main branch or head office in Germany and carries out the activity as a real estate broker in Germany.

These business operators are also obliged to be entered in the register of intermediaries in accordance with § 11a GewO immediately after taking up their activities.

In Bavaria, the Chambers of Commerce and Industry are responsible for the licensing and registration procedure for financial investment intermediaries, fee-based financial investment consultants and real estate brokers.

### Residential property manager

Since 01.08.2018, residential property managers, i. e. condominium property managers and rental apartment managers, have also been subject to a licensing obligation under commercial law, which requires proof of reliability, orderly finances and professional liability insurance, but not proof of expertise. They are not required to register in the intermediary register.

### 4.1.3 Special legal provisions

Economic freedom guarantees free access to business. In the interest of the general public, however, the exercise of a business is subject to industry-specific conditions and regulations. For example, a food retailer must observe the following aspects, among others: health regulations, provisions on shop hygiene, the provisions of the Shop Closing Hours Act, the right to indicate prices and the provisions of the Food, Commodities and Feed Code. Some trades are also subject to certain record-keeping and information obligations.

According to the Service Information Duty Ordinance (DL-InfoV), some service providers (e. g. from the retail, gastronomy, crafts and IT services sectors) must provide customers with certain information (e.g. name, company, legal form, contact details, general terms and conditions, etc.) on their own initiative; other information (e.g. information on professional regulations, codes of conduct or out-of-court conciliation procedures, etc.) need only be made available on request.

### 4.1.4 Itinerant trade card

If you want to run an itinerant business, you need a corresponding itinerant trade card. The itinerant trade card has to be applied for at the responsible district administration authority – district administration office or independent city. The prerequisite for this is once again the „personal reliability“ of the applicant. Here, too, the business operator must apply for a police certificate and an excerpt from the central trade register for submission to an authority.

An itinerant business is defined according to § 55 of the business code (GewO) as follows:

„(1) An itinerant business is operated by anyone who, on a commercial basis, without a previous order outside his commercial establishment (§ 4 Para 3 GewO) or without having such an order, offers for goods sale or prospects for orders (engages in marketing) or purchases orders, offers services or prospects for

orders for services or performs entertainment activities as a fairground ride operator or in the manner of a fairground ride operator.

(2) Anyone wishing to operate an itinerant business shall require a permit (itinerant trade card).“

In certain cases there are exceptions to the itinerant card requirement, e.g. if the self-employed person prospects other persons within the scope of their business operations. This applies, for example, to commercial agents. However, they must notify their business in accordance with § 14 of the business code if they simultaneously run a commercial establishment.

For those employed in the operation of the itinerant trade, i. e. employed persons, there is no itinerant card obligation. However, when they contact customers, they must carry a duplicate or a certified copy of their employer's itinerant trade card and present it on request.

### 4.1.5 Craft trades

The term „craft trade“ is not defined by law. However, the business code provides a reference. Annex A contains a list of those 41 trades that can be operated as crafts requiring a licence. The following applies: only an owner who can prove a corresponding master's qualification or an equivalent qualification may independently exercise an Annex A craft trade. If the owner does not have this qualification, he must employ an appropriately qualified manager.

However, the list in Annex A does not give any indication of the manual mode of operation of the trades listed there. The listed trades may therefore, but are not required to, be operated as crafts. If individual partial activities of an Annex A occupation are carried out, it must be checked whether these are essential activities.

### 4.1.6 Liberal professions

Doctors, lawyers and architects are typical representatives of the „liberal professions“. These activities focus on an intellectual, artistic or scientific activity. The competent professional associations such as the Medical Association, the Bar Association and the Chamber of Architects provide information on the admission and professional practice regulations applicable in each case.

#### Good to know



*If there is any doubt as to whether this is a manual mode of operation or an essential activity, the competent Chamber of Commerce and Industry and the HWK will provide information. This helped to avoid later difficulties.*

*And the CCI can also offer initial assistance and orientation with questions concerning the assignment of the planned activity to the liberal professions.*

## 4.2 Choice of legal form and corporate law

### 4.2.1 Choice of legal form

The choice of the right legal form is decisive for the existence of a company. Growth and higher liability risks in the course of time often require a change of legal form. It is therefore advisable to regularly check whether the current legal form still fits the company's development. If there is a need for change, the Transformation Act provides suitable instruments. In particular, a change in the legal form while preserving the identity of the business operator may be considered. In any case, it is important to obtain accompanying advice on the formal procedure and tax consequences of a planned company transformation. Commercial and company law define the types of companies available for selection. However, these basic structures can in part be changed and adapted to the individual needs of the company.

### 4.2.2 Entry in the commercial register

Entry in the commercial register offers advantages and disadvantages to the entrepreneur. After entry, the new business operator can grant employees proxy rights and receives the right to appear exclusively under a company name (without naming their own surname).

A prerequisite for the admissibility of a company name is that it is distinctive and identifying and does not contain any misleading terms. For example, a small real estate agent may not call himself „Deutsche Immobilien GmbH“. In addition, one should check as comprehensively as possible whether the desired name does not already exist in the same or a related sector, since disputes under name law can arise from this. If, for cost reasons, you do not involve a professional research company, you should at least look online yourself to see whether the desired name already exists. Whether the name in question is protected as a trademark can again be determined for example at the German Patent and Trademark Office ([dpma.de](https://dpma.de)).

You should regularly pay attention to similar spellings in such searches, as similar terms can also trigger injunctive relief in individual cases due to possible confusion.

Entry in the commercial register usually means double-entry bookkeeping and accounting. Since the introduction of the BilMoG (Accounting Law Modernisation Act), however, registered merchants have a right of choice in this regard, provided they do not achieve more than 600,000 € in turnover and/or 60,000 € in net income for the year in two consecutive financial years.

Due to the strict requirements of the German Commercial Code, the self-employed person must immediately inspect incoming goods for defects and, if necessary, lodge a complaint in order not to lose warranty claims. Caution is then also required with guarantees. These are legally binding purely on the basis of verbal agreements.



### 4.2.3 Small business vs. commercial operation

A special feature of German company law is the distinction between small businesses and commercial operations. However, this only plays a role in partnerships, not in legal entities.

Commercial enterprises must be entered in the commercial register; the German Commercial Code (HGB) applies to their business.

Non-commercial enterprises (small businesses) can voluntarily register in the commercial register and are then treated as merchants. If they do not make use of this possibility, they are generally subject to the Civil Code (BGB) for legal transactions, but not to the HGB. The question of whether an enterprise is to be qualified as commercial depends on whether the business concern requires a commercial mechanism according to kind and extent (§ 1 HGB). Decisive criteria for this are primarily the turnover, the number of employees, the level of business assets, the credit volume as well as the number of locations/branches. Turnover in the amount of more than 400,000 € is usually an indication that the small-scale business framework has been exceeded.

A non-commercial enterprise can be run by an individual (small business operator) or by a partnership under civil law (BGB-Gesellschaft or GbR).

Commercial sole trader and partnership company forms are the sole trader (e. Kfm. = registered business operator, e. Kfr. = registered businesswoman), the general partnership (OHG), the limited partnership (KG) and the mixed limited partnership (GmbH & Co. KG).

When registering in the commercial register, special formalities must be observed: applications must always be made in notarised form.

In the following, the most important and most common legal forms of incorporation are presented:

### 4.2.4 Sole trader and partnership companies

#### Small business: sole trader

The simplest way to start a business is business registration (Gewerbeanmeldung). Registration takes place exclusively on the first name and surname of the business operator. The business licensing office (Gewerbeamt) also checks whether a

permit is required to carry out a business in accordance with business law regulations.

Anyone who does not submit the business registration, fails to submit it correctly, or does not submit it completely or within the required time limit is acting contrary to regulations. Fines or statutory administrative measures may be imposed.

The business registers of the business authority employees are not public, inspection by private persons is not possible. However, upon request, the business authorities will provide information on the name, address and activity of the business.

The small business operator is liable to his creditors with all his business and private assets. The risk can be kept within limits by the conclusion of appropriate insurances.

A small business operator can also voluntarily be registered in the business register.

#### Small business: BGB company (GbR)

If, for example, several persons join together to form a small-scale enterprise, a BGB company (= GbR "Gesellschaft bürgerlichen Rechts") is established. The legal basis can be found in the Civil Code (BGB). It reads: „By the articles of association the partners commit themselves mutually to promote the achievement of a common purpose in the way determined by the contract, in particular to make the agreed contributions“. Common purpose can be any permitted activity. A GbR can therefore also pursue non-commercial purposes.

- No written contract is required for the establishment of the company, verbal agreement will suffice. Nevertheless it is strongly recommended to put down the substantial points of the union in writing. This creates clear conditions in the event that ambiguities or differences of opinion arise at a later point in time.
- A business registration of all partners is prescribed for a commercial GbR.
- All the partners are in principle liable, both with their business and with their private assets. Creditors can assert claims against the company, the partners and both at the same time in court. According to the case law of the Federal Court of Justice (BGH), it is no longer necessary to sue all shareholders of a GbR if a judgement is subsequently to be enforced against the company. For this a judgement against the company itself is sufficient. For enforcement against the private assets of a shareholder, a judgment against the shareholder personally will also be required in the future.
- Liability limitation models are possible, but should not be selected without well-founded legal consultation.

A form-based and one-sided exclusion of liability by the company, for example by the use of the addition GbRmbH is not possible. An individual agreement between the parties within the framework of a contract concluded between them is required.

- In company law, a distinction is made between management and representation. The task of management is the internal management of a company, e. g. supervision of production, bookkeeping, correspondence, etc. Representation acts externally, i. e. entering into concrete obligations.
- In the case of a BGB company, the law stipulates that the shareholders are jointly entitled to management authority and that a certain degree of control is thus possible. Representation depends on the management authority, the principle of the overall representation by all partners applies jointly. In the articles of association, however, different arrangements can be made.
- The termination of a shareholder or his resignation results in the dissolution of the company or its continuation with the remaining shareholders, depending on the contractual arrangement.

### Commercial enterprise forms

#### Sole commercial trader (Einzelkaufmann/Einzelkauffrau, e. Kfm./Kfr.)

If the company is of a commercial size, a registration for entry in the commercial register must be made in addition to the business registration. Small business operators can voluntarily register in the commercial register and thereby become a „merchant“ within the meaning of the German Commercial Code.

- The liability of the individual merchant is unlimited; the Commercial Code applies in full to his or her transactions.
- Sole commercial traders carry a company name (= company), which must be registered in the commercial register. Under their company, they can acquire rights and incur liabilities, sue in court or be sued. The name of the business owner does not have to be included in the company name. Merchants are obliged to keep commercial accounts and balance sheets.

#### General partnership (Offene Handelsgesellschaft, OHG)

The legal basis of the general partnership (OHG) is the Commercial Code. It states: „A company whose purpose is the operation of a commercial enterprise under a joint company is a general partnership if the liability of none of the partners towards the company creditors is limited.“ Particular features are therefore the use of a common company name and the unlimited liability of all parties involved. The administration of one's own assets is sufficient to establish an OHG, no commercial activity is required.

- When an enterprise, which has so far been operated in the form of a GbR, reaches commercial dimensions, it must be entered into the commercial register in addition to business registration. It thereby becomes an OHG. Entry in the business register must be certified by a notary.
- The legal relationship between the shareholders is primarily governed by the articles of association. The legal regulations are to be applied only if nothing to the contrary is stipulated in the articles of association. The articles of association do not necessarily have to be in writing. Due to its considerable importance, however, it should be appropriately recorded for evidence purposes. When drafting contracts, it makes sense to seek advice from a notary or lawyer.
- As a rule, the shareholders make their living through personal activity in the company. Apart from the distribution of profits, the admissibility or requirements of regular withdrawals should therefore be regulated.
- Internal management in an OHG is the responsibility of each partner alone. This cannot be simply withdrawn. This question is so important that – where cause exists – the withdrawal of the power of management must be sued for in court (here too, however, the memorandum and articles of association may provide otherwise). According to the law, a unanimous resolution is required for the conclusion of unusual transactions; the contract may permit majority resolutions.
- The OHG acts externally as a closed unit, it carries an independent company name, can inherit rights under its company name and can enter into obligations, acquire ownership and rights in rem to land, sue and be sued in court. It is represented by the partners, whereby according to the law everyone is entitled to sole representation. However, the partners are free to adapt the representation regulations to their individual needs. For example, internal restrictions on the power of representation are common in the form of consultation for important business transactions. However, this condition has no external effect. A breach of this rule can only give rise to liability for damages in the internal relationship.

### Good to know



**Exception:** if, in two consecutive business years, turnover does not exceed 600,000 € and/or profit does not exceed 60,000 €, you can be exempted from the accounting obligation under BilMoG.

- A creditor can claim against both the company with its assets and the shareholders with their private assets, in each case for the full claim. A possibly necessary compensation must take place internally.
- The partners of the OHG are subject to a legally binding ban on competition. A partner may not conduct business in the company's industry without the consent of the other partners, nor may he be involved in another similar commercial company as a personally liable partner.
- If a shareholder leaves the company, he is liable for the liabilities incurred up to his departure for another five years. Dissolution should in any case be regulated in detail in the articles of association. Notice periods, compensation sums and succession regulations should thus be fixed in the partnership agreement.

#### Limited partnership (Kommanditgesellschaft, KG)

The limited partnership differs from a general partnership essentially in that the liability towards creditors of one or more of the partners is limited to a precisely quantified amount of money – which is also entered in the commercial register. This is referred to as a limited partnership contribution. The fully liable partners are „general partners“, the limited liability partners are „limited partners“.

Thus, the shareholders bear different risks, which also has an effect on the company structure. The position of the generally liable partners is much stronger than that of the limited partners. In particular, the latter are excluded from management/representation; on the other hand, they are not subject to any ban on competition.

### 4.2.5 Legal entities/capital companies

Limited Liability Company (Gesellschaft mit beschränkter Haftung, GmbH)/Enterprise Company (Unternehmergesellschaft, UG, limited liability)

The main reason for the choice of the legal form „GmbH“ results from the designation „with limited liability“. It offers the legal possibility of limiting liability towards creditors to the company assets. The establishment of a GmbH is substantially more complex than with the aforementioned legal forms. Notarised articles of association are required, which must correspond to legally prescribed minimum requirements. The GmbH as its own legal person and bearer of rights and obligations, however, only arises through entry in the commercial register. In order for the company to be able to act, a managing director must be appointed when the company is founded, who then represents the company. The managing director is entered in the commercial register.

The GmbH runs a company, i. e. its own name. It is an independent holder of rights and obligations. An individual can also found a GmbH. The business is registered on the respective company. The legal minimum capital stock of a GmbH amounts to 25,000 €.

If the share capital is less than 25,000 €, the foundation of a small business company (limited liability) is possible. This is not a separate company form, but a special form of the GmbH. The capital stock of an enterprise company (limited liability) may lie thus between 1 and 24,999 €. The establishment of an enterprise company (limited liability) can take place only by means of cash subscription. The addition of the legal form UG (haftungsbeschränkt) shows the reduced share capital to outside parties. According to legislators, the aim of a UG (haftungsbeschränkt) is to accrue a share capital of 25,000 €.

This shall take place through the formation of a reserve with the deposit of at least 1/4 of the annual profit. As soon as the accrued reserve reaches 25,000 €, a notarial capital increase can be carried out. As part of this capital increase, the legal form suffix can also be converted to a GmbH (limited liability company).

- Both the shareholders and the agents are prosecuted for any transactions concluded prior to registration of the company in the commercial register; they are only released from liability upon registration.
- According to § 325 HGB (German Commercial Code), the annual financial statements of the GmbH and thus also the UG (haftungsbeschränkt) must be submitted to the operator of the electronic Federal Gazette for publication. There is a simplification for small corporations, i.e. those which do not exceed at least two of the following three characteristics:
  - 6 million € balance sheet total
  - 12 million € revenue
  - 50 employees average during the year
 they only have to submit the balance sheet and annex, which in turn does not have to contain any information relevant to the income statement. According to § 325 HGB, small corporations (§ 267a HGB) can also choose filing instead of publication.

#### Stock corporation (AG)

A joint-stock company may be formed by one or more persons. Like a GmbH, it is a company with its own legal person and share capital. The formation process is subject to strict formal requirements. The articles of association of a stock corporation require notarisation; their content cannot be freely defined. Stock corporation law is largely mandatory law.

- The legal minimum capital of a public limited company is 50,000 €.
- In addition to shares denominated in a nominal amount, no-par-value shares are also permitted. The share capital of a stock corporation must be divided uniformly into one of these two share forms. If the company opts for par value shares, their nominal value must be at least 1 euro.
- The rights arising from share ownership may be structured differently. The partners in the AG are called shareholders. The organs of a stock corporation are the Annual General Meeting, the Executive Board and the Supervisory Board, which consists of at least three persons.
- The Annual General Meeting is the meeting of the shareholders who exercise their rights of co-administration there. The Annual General Meeting has no general competence; its rights are regulated precisely and relatively closely in the Stock Corporation Act.
- The Management Board manages the company under its own responsibility. It is not bound by instructions from the Supervisory Board or the Annual General Meeting.
- The Supervisory Board is responsible for appointing the members of the Management Board and for advising and supervising them on an ongoing basis. It has an unlimited right to information and inspection of all business documents.
- Under the heading „Kleine AG“ (small stock corporation), various simplifications for stock corporations came into force in 1994. The „Kleine AG“, however, is not a new type of public limited company, but offers comparable simplifications for companies of a certain size and with a limited number of shareholders. This provides small and medium-sized enterprises primarily with facilitated access to incorporation and thus to directly raise equity capital; comparable simplifications are offered for enterprises of a certain size and with a manageable circle of partners in the GmbH. This will make it easier for small and medium-sized enterprises in particular to access incorporation and thus directly raise equity capital.
- The advantages of the „Kleine AG“ are, among other things, the simplified holding of general meetings, extended flexibility with regard to the use of funds, especially for dividend payouts, and exemption from employee participation for stock corporations with fewer than 500 employees.

### Cooperative

The cooperative has no fixed share capital. It is characterized by heavily fluctuating membership numbers. The purpose of the cooperative is to promote the purchasing power or the economy of its members or their social or cultural interests. At least three founding members are required. The cooperative is represented by the Executive Board; its activities are subject to supervising by cooperative auditing associations. Only the

assets of the cooperative are liable to creditors for the liabilities of the cooperative. A written contract (statute) is a pre-requisite for the foundation of a cooperative.

The register courts keep a register of cooperatives in which such organisations must be entered.

## 4.2.6 Special forms

### Partnership

The establishment of a company with the legal form of a „partnership“ has been possible since the Partnership Act came into force in 1995. The partnership is similar to a general partnership, but can only be chosen by freelancers such as doctors or lawyers. In addition to the assets of the partnership, the partners are personally liable to any creditors for the liabilities of the partnership. However, they can limit their liability for claims arising from damage due to improper professional practice (including the use of general terms and conditions) to those of them who are to provide the professional service within the partnership or who are responsible for managing and supervising the professional service.

A partnership with limited professional liability (Partnerschaftsgesellschaft mit beschränkter Berufshaftung, PartG mbB) is a variant of the partnership (Partnerschaftsgesellschaft) for which special liability insurance is provided.

The law governing partnerships is very narrowly regulated by law. The interest in this legal form has declined due to the fact that some freelancers have now been granted permission to found a GmbH. Partnership companies must be entered in the partnership register at the local court.

### Silent partnership

Silent partnerships cannot be recognised from the outside, the silent partner does not register a business. Silent partnerships are partnerships in which a person acquires an interest in another person's company in return for a share of the profits. Rights and obligations arising from transactions concluded with third parties affect only the business owner and not the silent partner. The silent partner is entitled to limited control rights; in principle, he can only demand written notification of the annual financial statements, and to verify the accuracy of books and documents.

The silent partner participates in profits and losses. In contrast to profit sharing, which is mandatory, loss sharing can be excluded. After the dissolution of the company, the silent partner has a claim to payment of his credit balance. A passive

balance does not lead to a right to supplementary payment, but is considered settled. If the partnership deviates from the legal (classic) regulation, this is an atypical silent partnership (e. g. if more control rights are granted to the silent partner, the silent partner participates in management, etc.).

## 4.2.7 Comparison of legal forms

LEGAL FORM	SINGLE COMPANY	BGB COMPANY (GBR)	OPEN TRADING COMPANY (OHG)	LIMITED PARTNERSHIP (KG)
LEGAL NORMS	§§ 1ff HGB	§ 705 - 740 BGB	§§ 105 - 160 HGB	§§ 161 - 177a HGB
NUMBER OF FOUNDERS	1	at least 2	at least 2	1 general and 1 limited partner
EQUITY	assets of the business operator	shareholders' assets	capital contributions by shareholders	capital contributions by shareholders
MINIMUM CAPITAL (AT FOUNDATION)	none	none	none	none
MINIMUM CAPITAL DEPOSIT (AT FOUNDATION)	none	none	none	none
LIABILITY OF PARTICIPANTS	fully liable with total of private assets	each shareholder has unlimited, direct and joint liability	each shareholder has unlimited, direct and joint liability	general partner fully liable with total of private assets, limited partner limited to the contribution made
MANAGEMENT POWERS	business operator	all partners together	all partners, if applicable only together	only general partner
FURTHER DECISION-MAKING CENTRES	none	none	none	none
STATUTORY PROFIT DISTRIBUTION	undivided to this operator	per capita (unless contractually agreed otherwise)	4 % on capital share, remainder per capita (unless contractually agreed otherwise)	4 % on capital share, remainder in appropriate proportion (unless contractually agreed otherwise)
ENTRY IN COMMERCIAL REGISTER	no; yes if merchant	no	yes	yes



LIMITED LIABILITY COMPANY (GMBH) OR ENTERPRISE COMPANY (UG, LIMITED LIABILITY)	STOCK CORPORATION (AG)	REGISTERED COOPERATIVE (E. G.)	SILENT PARTNERSHIP (CLASSIC)	LEGAL FORM
GmbH Act	Stock Corporation Act	Cooperatives Act	§§ 230 – 236 HGB	LEGAL NORMS
at least 1 shareholder	at least 1 shareholder	at least 3 members	at least 1 business operator and 1 silent partner	NUMBER OF FOUNDERS
capital contributions by shareholders	assumption of the shares by the founders	shares held by members	assets of the business operator and capital contribution of the silent partner	EQUITY
share capital at least 25.000 € (minimum payment at foundation 12,500 €). In case of UG from 1 euro share capital	initial capital at least 50.000 € (minimum deposit at foundation 12,500 €)	none	none	MINIMUM CAPITAL (AT FOUNDATION)
share capital minimum 1 €	share capital minimum 1 euro	nominal share according to statute	none	MINIMUM CAPITAL DEPOSIT (AT FOUNDATION)
liability limited to company assets	liability limited to company assets	liability limited to the assets of the cooperative; obligation of the business operator to make additional contributions	business operator full liability, silent partner takes part in the loss only up to the amount of his deposit	LIABILITY OF PARTICIPANTS
managing director	board	board	business operator only	MANAGEMENT POWERS
shareholders' meeting (optional: advisory board)	supervisory board, annual general meeting	supervisory board, annual general meeting/ representatives' meeting	none	FURTHER DECISION CENTRES
pro rata according to capital contribution (= share), unless otherwise contractually specified. In the case of a UG obligation to form reserves	dividends pro rata by number of shares	pro rata by credit balance	in reasonable proportion	STATUTORY PROFIT DISTRIBUTION
yes	yes	yes	no	ENTRY IN COMMERCIAL REGISTER

## 4.3 Taxes

### 4.3.1 Value added tax

In principle, sales tax must be paid for every delivery of goods and every service. Exceptions to the rule can be found in § 4 Value Added Tax Act (UStG). The value added tax currently amounts to 19 % of the remuneration. A reduced tax rate of 7 % applies to almost all foodstuffs, printed books/brochures and some other goods. In the case of deliveries and services to the end consumer, the tax must be included in the invoice amount. In the case of an invoice amount of more than 250 €, the recipient can demand that the sales tax be shown separately.

VAT invoiced by other companies can be deducted from the business operator's own VAT liability as so-called input tax.

#### An example



*Martin Müller achieved a turnover of 4,760 € (gross) with his retail business in the month of June. Müller invoiced his customers for 19 % sales tax: This corresponds to 760 €. Müller's suppliers have included sales tax of 290 € in their invoices for this month. This results in the following invoice for Müller: 760 € minus 290 € makes 470 € sales tax, which he must transfer to the responsible tax office.*

As a founder of a new business, you are obliged to submit a monthly VAT return for the first two years. The advance return, in which the collected VAT and paid input tax amounts must be declared, must be submitted electronically to the tax office by the 10th day of the following month at the latest. Only in exceptional cases does the tax office allow the submission of the application in paper form upon request. In the case of companies whose turnover tax liability in the previous year did not exceed the sum of 7,500 €, and advance return submitted by the 10th day of the next quarter at the latest is sufficient. The entrepreneur must calculate „his“ sales tax for the corresponding accounting period himself and transfer any resulting tax burden to the tax office.

Grace period for bank transfers: 3 days – point of receipt by the tax office is the determining factor!

For the calculation of the value added tax the business founder must record the following:

- All income that the business has earned for products and other services; with these fees, a distinction must be made

between different tax rates and between tax-exempt and taxable sales.

- All payments to other companies for delivered goods, products and services as well as the input tax payable on them.

#### Good to know



*As a founder of a new business, you can choose at the beginning of your activity whether you want to charge VAT or not. The limits are a turnover of up to 17,500 € in the previous year and a turnover of up to 50,000 € in the current year.*

*It should be noted, however, that you cannot claim input tax within the framework of this small business regulation. This can be disadvantageous if, for example, in the initial phase of your enterprise you make big investments burdened with sales tax or if purchases (goods, materials, etc.) are made on a regular basis in day-to-day business. Therefore, the application of the small business regulation can be waived by a declaration to the tax office with the consequence that input tax deduction is then possible. Such a waiver should of course be well considered, as it is binding for five years!*

### 4.3.2 Income tax and corporate income tax

Here a simple rule applies: „natural persons“ pay income tax, „legal persons“ corporation tax. The term „natural person“ simply stands for the business owner who is liable for the business with his name and private assets. The profit which he has made after the annual financial statement must be stated in the income tax return together with any other possible income from capital assets. The profit results from the sum of all incomes less all operating expenses. „Personal living costs“ for your own accommodation are not deductible; this usually includes clothing, food, skiing holidays etc.. The higher the profit, the higher its tax burden, which above a basic allowance of 9,000 € (as of 2018) ranges from 14.0 % to the maximum tax rate of 45.0 % for income tax, plus solidarity surcharge.

Legal entities such as the GmbH pay corporation tax. In this case, the profit is determined on the basis of double-entry book-keeping: balance sheet and profit and loss account. The legal basis is the income tax regulations on operating income and expenses. For retained earnings, the uniform corporate income tax rate is 15 % plus the solidarity surcharge.

Since 2009, a distinction has been made at shareholder level as to whether the shares in the corporation are held in the private

assets of an investor (natural person) or in the business assets of a partnership. Since 2009, dividends received by private individuals have been subject to withholding tax at a rate of 25 % (+ SolZ). If the personal income tax rate is below 25 %, the lower personal tax rate may be applied for. In the case of shares held as business assets, 40 % of dividends accrued since 2009 are exempt from tax under the partial income method. 60 % of the dividend is subject to the shareholder's personal income tax rate.

### 4.3.3 Business tax

Business tax is levied on the business's annual income. A tax-free amount of 24,500 € applies to this so-called „trade income“ for sole traders and partnerships. Only above this threshold do they have to pay business tax. However, this allowance does not apply to corporations such as a GmbH. The business tax has to be paid quarterly in advance. Their respective amount depends on where the company is domiciled or on the applicable rate of assessment, which each municipality can set separately for its own territory.

### 4.3.4 Recording and accounting duties

The business operator is basically obliged to keep the following records:

- He must keep a so-called „cash book“, which contains the daily receipts and expenditures.
- Recording of all incoming and outgoing goods.

The tax obligation for double-entry bookkeeping exists if:

- The expected annual turnover exceeds the limit of 600,000 €
- The profit for the current financial year was more than 60,000 €.
- The business owner is entered in the commercial register or is required to keep accounts in accordance with other non-tax regulations.

Possible simplifications exist for registered merchants. Please ask your tax advisor for details.

With doubleentry bookkeeping, all business transactions are booked to accounts, once in debit and once in credit. For this purpose, there are charts of accounts that are developed for each company from the various charts of accounts for its branch of industry. A chart of accounts is the structure of all relevant accounts, it contains only those accounts which are actually necessary for the company and which are managed by it. Almost every sector has its own chart of accounts.

Doubleentry accounting is used to determine the profit for the

period. For this reason, period accruals must also be written down, provisions made and receivables or payables posted. In contrast to the revenue surplus calculation, it is not only the actual cash flows which are relevant.

Balance sheets and profit and loss accounts for economic years that began after 31 December 2012 must be submitted electronically to the tax office. Information on the electronic balance sheet (e-balance sheet) can also be found via the IHK organisation on the Internet.

Freelancers and entrepreneurs who are not required to keep accounts determine profit according to § 4 Para. 3 Income Tax Act by means of an income surplus calculation. The tax authorities have developed an official form for this which must be used for the determination of profits for the financial years from 2005 onwards. Since 2012, the data must be transmitted electronically, from the assessment period 2017 onwards exclusively with electronic authentication. Also since 2017, the regulation stating that an informal determination of profits could be attached to the tax return instead of the official form for operating income of less than 17,500 € has been dropped. On request, however, the tax office can, in cases of hardship, dispense with the transmission of the standardised income statement according to the official prescribed data record by remote data transmission.

Within the framework of business supervising, special recording obligations apply in Bavaria in certain sectors, such as the secondhand goods business. The competent licensing authority and the Chambers of Commerce and Industry provide detailed information.

## 4.4 Funding and support

Every business start-up requires start-up capital: acquisitions or investments in machinery and vehicles, office technology, a first warehouse or conversion work at the new business premises incur costs and operating expenses e. g. for the initial personnel, rent, advertising etc. are incurred in order to get the business rolling. Frequently, the available equity capital is far from sufficient for this. The founder must therefore deal with financing if he wants to put his business idea into practice.

However, the procurement of loan capital at the start of a business poses special challenges. The recent financial and economic crises, amongst other issues, have made banks and other investors cautious and restrained – without a conclusive business concept, without a consistently convincing business plan, it will be hard to access money. This circumstance certainly also has its good side: if unrealistic business ideas are no longer financed due to excessive risk of defaulting, this protects many potential company founders from ultimate bankruptcy. This positive aspect is illustrated by statistics from the Munich Chamber of Commerce and Industry (IHK): According to these statistics, the chances of survival of companies that started without public subsidy loans are only just under 62 % after five years, of those with the support of normal bank loans almost 71 % and of those with subsidy loans almost 97 %.

The explanation for this is simple: when applying for public subsidies, particularly high demands are made on the business concept and the financial plan of the company founder.

In addition to a detailed success, turnover and profitability plan and a liquidity plan (see again chapter 3.4), this financial plan is primarily intended to answer two core questions:

- For what purpose and to what extent are funds needed? (= planning the use of funds, capital requirement plan)
- From which sources should the required funds flow? (= planning the source of funds)

### Planning the use of funds

The capital requirement for fixed assets consists mainly of investments and acquisitions in the following assets:

- Company land and real estate
- Conversions and installations
- Machines
- Furnishings
- Vehicle fleet
- Office equipment and technology
- Tools

- Patents, licenses
- Compensation for receivables to be transferred
- Purchase price in the case of business acquisitions

In addition to the financing requirements for the fixed assets and, if necessary, a (first) stock of goods and materials, it must also be taken into account that your customers also take advantage of payment terms. You must therefore pre-finance your order backlog until customer payments are received. The capital requirements plan must take this into account in any case, that is, it must also reflect the working capital requirements resulting from the liquidity plan.

For maintaining liquidity, the length of the start-up time is of particular importance, that is the period of time that elapses before sufficient sales are generated. The following rules of thumb have proven their worth in estimating the funds required during the start-up period:

- General liquidity reserve: one twelfth of annual costs
- Liquidity reserve for fixed costs such as rent: 3-month requirement
- Liquidity reserve for subsistence of the founder: private expenses including long-term ongoing liabilities for six months
- In addition, the foundation of the business itself usually involves one-off expenses, e. g. for.
  - start-up advice
  - participation in start-up seminars etc.
  - obtaining of permits
  - commercial register entry
  - rent deposit
  - opening advertising
  - and much more

### Planning the origin of funds

The so-called financing rules, which are based on how long the funds are tied up in the company, form the basis for the appropriate financing of a business start-up.



#### Golden financing rule.

Fixed assets are covered by equity, current assets by borrowed capital.



#### Silver financing rule.

Fixed assets are covered by equity and long-term debt, current assets through borrowed capital.

### 4.4.1 Forms of financing

Classic credit financing has the following variants:

- Loans: longer-term loans at standard bank conditions or promotional loans from publicly funded programmes
- Current account overdrafts: short-term loans to cover current operating expenses
- Supplier credits

In addition to covering capital requirements with loans, the following alternatives are available for company founders.

#### Leasing

Leasing is a widespread alternative to bank-financed investments. Today it is wide-spread in all sectors of the economy.

When we talk about leasing in practice, we are usually talking about finance leasing.

This includes the rental of mobile investment goods such as office machinery, machine tools, IT equipment, fittings for shops, offices and hotels as well as the leasing of real estate such as administrative buildings, factory buildings and supermarkets. A fixed rental period is agreed during which the contract cannot be terminated. Financial leasing offers the following advantages: it protects equity capital and increases liquidity with leasing periods tailored to requirements. As a professional dealing in the leasing of property, the leasing company can, on the basis of its specialist expertise in the exploitation of used movable goods and real estate, to some degree take the leased object into account with an increased security value. This can expand the scope of the credit if necessary.

Leasing has firmly established itself within the economy as a supplement to bank loans. However, leasing companies impose the same creditworthiness requirements on their customers as banks.

#### Factoring

Factoring is the continuous purchase of short-term invoices from deliveries of goods and services (= inventories) by a factoring company. Factoring offers the following advantages:

- The immediate advance of the purchase price up to 90 % and the associated regular stable liquidity supply
- under 100 % assumption of the default risk (known as del credere protection) with the advantage of secured distribution channels with a balanced customer portfolio
- and (optionally) additional services, such as debtor manage-

ment or dunning, which the factoring company takes over and thus relieves the business founder of administrative work.

Factoring also leads to an optimisation of the balance sheet structure: the reduced balance sheet total leads to an improvement in key figures, which in turn can have a positive effect on the credit rating of the company with other investors.

#### Crowdfunding

In crowdfunding, many people with small sums of money jointly finance a project or plan via the Internet. For their support, the donors usually receive a return service from the project starter, which may be notional, material, or financial in nature. There are four models of crowdfunding defined depending on the consideration the crowd receives: reward-, equity-, lending-, or donation-based crowdfunding (the latter also called crowd investing, crowdlending and crowddonating). In all forms, an online platform usually acts as an intermediary between money seekers and money givers.

An overview of the various platform providers can be found below: [crowdfunding.de/plattformen/](https://crowdfunding.de/plattformen/)

The form of reward-based crowdfunding can be particularly interesting for companies that want to test a new B2C product on the market. Since the crowd is only used to finance products that actually meet with interest and willingness to pay among the target group, the campaign functions as a real market test. In addition, a good crowdfunding campaign can also tap a large support network and valuable multipliers through its reach. Thus, rewardbased crowdfunding combines financing, marketing and proof of concept.

Crowd investing is particularly interesting for innovative and strongly growth-oriented companies in the early seed phase when the company needs capital to tap the market. The investors participate in the company's success within the framework of crowdinvestment. This is usually done by means of participatory loans, which have a character similar to equity due to their subordinate status.

In crowdlending, the crowd acts as a lender to companies. The crowdlending platform classifies the loans into risk classes and the interest payable is determined accordingly. This differs from bank loans in the lower claims on existing collateral, since the risk of default is borne by the crowd, and faster processing. This form is often used as order pre-financing and can be an alternative to bank loans, especially for small and medium-sized enterprises.

For the operation of a crowdfunding platform, it must be clarified in advance whether the activity is subject to licensing and which other legal obligations must be observed. Licensing obligations may apply, for example under the business code, the banking act, the capital investment code or the payment services supervision act.

Further information on crowdfunding can be found at:

[ihk-muenchen.de/crowd](https://ihk-muenchen.de/crowd)

#### 4.4.2 Credit assessment

As a rule, banks only grant loans if the default risk remains calculable and a corresponding credit check is positive. Start-ups in particular regularly have to undergo a particularly critical assessment in order to obtain outside capital. The banks examine the following criteria regardless of whether loans are to be granted from the bank's funds or from public funding sources:

- Personal conditions
  - general personal and economic circumstances (existing liabilities, previous method of payment)
  - industry knowledge
  - professional career
  - education, training and further education
- Motives for moving into self-employment
- Age
- Factual conditions
  - market opportunities (competitive situation, marketing concept)
  - location
  - existing business relations
  - equity investment
  - assessment of the business foundation concept
  - collaboration of the spouse in the company
  - own income of the spouse

In order to conduct credit negotiations successfully, you must usually submit at least the following documents:

- Comprehensive business plan incl.
- Turnover/profitability plan for min. 3 years
- Liquidity plan for min. 24 months
- Curriculum vitae, professional background
- Evidence of formal qualifications (for trades requiring authorisation: examinations, evidence of formal qualifications)
- Information on location and catchment area, if relevant or
- Purchase or rental contracts
- Photos/plans/documents concerning the relevant properties, locations, etc.

Loans are only granted if sufficient collateral is available. The following „normal bank“ securities are possible:

- Assignment by way of security of the purchased items (machines and equipment will only be recognised as security to a part of their actual value)
- Assignment of receivables (corresponding invoice amounts, however, are usually only valued at large discounts)
- Land charge or mortgage
- Endowment life insurance
- Capital assets (savings, possibly shares)
- Guarantees (e.g. spouses or business partners, suppliers etc.)
- Guarantees issued by Bürgschaftsbank Bayern or LfA Förderbank Bayern (see also section 4.4.4).

#### 4.4.3 Public funding

The Federal Government and the Free State of Bavaria offer a whole range of financial assistance for the promotion of start-ups: favourable loans, public guarantees, partial exemption from liability and equity investments. In some cases considerable subsidies are possible for investments in the assisted areas concerned, for innovative, technology-oriented projects or special entrepreneurial measures in the field of digitisation. In addition, there are various EU funding programmes. In any case, the Federal Republic of Germany is the country of support programmes and pilot projects: around 1,000 public programmes exist in the field of business start-ups and technology promotion alone.

#### Good to know



*Even experts find it difficult to keep their bearings in this funding jungle: so first contact your IHK (Chamber of Commerce and Industry). Here you can get specific information and advice about all possibilities of public funding for your project.*

Personal reliability, professional aptitude and a promising business concept are the basic prerequisites for loan support from public funds. In addition, the equity ratio must correspond to the assets and expected earnings situation. Debt restructuring is not possible. Public loan support is based on the following principles:

- **House bank principle:** The business operator must apply for public funding via a credit institution of his choice.
- **Primary liability:** The house bank must assume full liability for some of the loan programmes. This requires appropriate negotiations between the applicant and the house bank to



secure the default risk.

- **Pre-start clause:** The founder must submit the funding application before the „start of the project“, subsequent financing is not possible. The start of the project is taken as the point of entering into a significant commitment or a corresponding payment obligation. Once the application has been submitted, the house bank can finance the necessary investments on an interim basis.
- **Full autonomy:** The aim of the support is generally to achieve full autonomy. The company must have a realistic chance of securing the operator's livelihood permanently and inform. The self-employed person must not co-finance his live-lihood through „part-time jobs“. After a certain start-up period the company must achieve sufficient profitability.  
**Exception: some publicly funded loan programmes also provide start-up financing for part-time self-employment and support for the start-up phase.**
- **Takeover and participation:** the takeover of an existing business is considered a start-up. Also, active participation in an enterprise is eligible, but not participation as a limited partner, silent partner or partner in a GmbH without management authority.
- **Investment support:** support is given for investments, including a warehouse for goods and materials.
- **Operating resources:** certain public loan programmes also permit the support of operating resources such as the pre-financing of orders and product development.

#### 4.4.4 Examples of publicly funded support: loans and investments

##### ERP start-up capital from KfW (see [kfw.de](https://www.kfw.de))

ERP start-up capital is also possible without proof of the usual bank securities. All that is required is the opinion of an independent, expert body such as the Chamber of Commerce and Industry. Business founders from the commercial economy and the liberal professions are entitled to apply if the building up of a sustainable independent business would be substantially difficult without this support. Sufficient professional and commercial qualifications with appropriate practical work experience are prerequisites.

Support is provided for start-ups, the purchase of a business and active participation, including investments up to three years after the start of self-employment. Business start-ups can only use this programme if they are prepared to use their own funds to an appropriate extent for the planned investment. Capital and tangible assets are regarded as own funds. Own

funds should account for 15 % of the basis for assessment. The own funds can be increased with the ERP start-up capital up to a maximum of 45 % of the assessment basis. The interest rate depends on the conditions on the capital market and is particularly low in the first few years. Disbursement is made at 100 %. In each year, the borrower must pay a guarantee fee of 1 %. The term is 15 years, repayment begins in the eighth year.

##### ERP-Gründerkredit-StartGeld from KfW (see under [kfw.de](https://www.kfw.de))

The ERP StartGeld start-up loan supports start-ups for up to five years after their foundation with a maximum loan of 100,000 €. Of this amount, operating costs can be financed up to a maximum of 30,000. A second application can be submitted within five years of foundation if the maximum amount of the loan is not exhausted.

The loan is available in two term variants:

- Up to 5 years with a repayment-free start-up year or
- Up to 10 years with two grace years and an 80 % indemnity in each case.

##### ERP-Gründerkredit-Universell from KfW (see under [kfw.de](https://www.kfw.de))

The ERP Universell start-up loan offers financial assistance for investments and operating resources.

An individual customer interest rate is determined for this loan product and depends on the creditworthiness and security of the customer. The upper limits for conditions are set by KfW.

##### Startkredit from LfA (see under [lfa.de](https://www.lfa.de))

This loan product supports founders from the commercial sector. This includes the retail, hotel and catering, craft and trade, industrial, transport and service sectors. Representatives of the liberal professions are also eligible to apply. The loan is also available to entrepreneurs who are venturing to set up a business for the second time, if there is a gap between the previous self-employed activity and start of the new business start-up of at least 12 months.

Support is provided for the establishment of a new business, including a warehouse if necessary, company takeovers and active participations. Investments can still be supported at start-up conditions for up to five years after the start of the company.

An individual customer interest rate is determined for this loan product depending on the creditworthiness and security of the customer. The LfA Förderbank Bayern sets maximum conditions.

The house bank can also apply for a liability exemption of 70 % of the loan amount.

The disbursement takes place at 100 per cent. The term is between 3 and 20 years with grace periods. Long-term investments can be financed with terms of up to 20 years. The minimum investment is 10,000 €. The start-up loan finances up to 100 % of the investment volume.

### Sureties

Companies that urgently need capital do not always have the necessary collateral to obtain a long-term bank loan with regular repayments.

In this context, the sureties provided by the LfA Förderbank Bayern and the Bürgschaftsbank Bayern ([bb-bayern.de](https://bb-bayern.de)) are an important building block for start-up projects. They serve as a substitute security for the house bank and can be used as additional collateral for current account or working capital loans, guarantees and classic loans. Depending on the reason for the financing and the level of risk, the amount of the surety may vary between 50 and 80 % of the loan amount.

Costs are incurred in the form of a surety commission based on term and financing risk (generally 0.8 % – 3 % p. a. plus administrative costs). Advantages:

- Additional security for the house bank
- More favourable loan conditions due to better collateralization
- Flexible and individually configurable funding instrument for all types of loans and maturities

### Equity Investment/Venture Capital

In certain business phases (start-up, growth) or when financing through bank loans is (temporarily) not or only partially possible, financing or strengthening the equity capital employed is often the only alternative. In addition to the use of further own funds, there is also the possibility of drawing on the services of specialised equity financing bodies. There are, for example the:

- **Equity capital programme of the LfA Förderbank Bayern for start-ups (max. 250,000 €, 10 a)**

Available in the first five years after foundation, amount: 20,000–250,000 €, term 10 years, grace period. No collateral has to be provided. Prerequisite is an appropriate equity investment by the business founder.

The aim is to generate enough income during this period that the equity capital can be repaid at the end of the term. The application can be made directly with the LfA promotion bank Bavaria ([lfa.de](https://lfa.de)).

- **Equity capital programme of the KfW Banking Group (max. 500,000 €, 10 a)**

ERP capital for start-up: persons starting a new business can

make use of this programme in the first three years of their business activity. Amount: up to 500,000 €, term 10 years, repayment after 7 years in quarterly equal instalments until the end of the term. No collateral required. However, you must contribute 15 % of the eligible costs in the form of your own resources. KfW increases these own funds by 30 % to 45 % of the eligible costs, the remaining 55 % to be financed elsewhere. The application is made via the house bank, but KfW ([kfw.de](https://kfw.de)) assumes 100 % of the risk for the increase in own funds.

- **Equity programmes via BayBG Bayerische Beteiligungsgesellschaft**

BayBG offers tailor-made financing concepts in the area of equity financing for various phases and requirements of corporate development. Combination with other promotional programmes is possible and often sensible. Applications are submitted directly via BayBG ([baybg.de](https://baybg.de)).

- **Equity programmes for innovative companies via Bayern Kapital**

Bayern Kapital offers young technology companies tailor-made financing concepts in the field of equity financing for the development and market launch of innovative products and processes. Combination with the above-mentioned programmes is possible and often very sensible. Applications are submitted directly via Bayern Kapital ([bayernkapital.de](https://bayernkapital.de)).

### Microfinance

Microfinance is an alternative form of financing for start-ups and entrepreneurs. It is intended for financing projects of small and young companies that cannot get loans from their house banks. Financing is provided for business activities only. When loans are granted to a legal entity there is also required joint liability on the part of the business operator.

Microloans have for example, short terms of a few months for the pre-financing of orders and up to a maximum of three years for the financing of investments. Loans are usually taken out in small steps of, for example, 1,000, 5,000 or 10,000 €. After successful repayment, increases of up to 20,000 € are possible.

In principle, the combination of microloans with other promotional funds is possible within the framework of current regulations. However, other offers, such as various coaching programmes offered by the Federal Government and the State of Bavaria, may not be used as a mandatory prerequisite for granting loans.

The loan application must be addressed to a microfinance institution of your choice. This will then provide information on the next steps.

Details on microfinance and possible contact points can be found at [bmas.de/mikrokredit](https://bmas.de/mikrokredit)

#### 4.4.5 Examples of publicly funded support: grants and special forms of support

##### Start-up subsidy

The Employment Agency (Agentur für Arbeit) can support start-ups who want to go from unemployment to self-employment with the start-up subsidy. The amount of the subsidy depends on personal entitlement to unemployment benefit I (according to SGB III). The start-up subsidy can be granted in two phases:

- Phase I: 6 months in the amount of the ALG I-entitlement plus a flat rate of 300 € per month.
- Phase II: a further nine months flat rate of 300 € per month.

The prerequisite for both phases is, among other things, the submission of a business plan documenting the prospects of success of the foundation. When the application is submitted for the first time, it is also necessary to obtain a viability report from an expert body.

Further information can be obtained from the employment agencies and the Chamber of Commerce and Industry (IHK), see [ihk-muenchen.de/gruender](https://ihk-muenchen.de/gruender).

##### Entry allowance

For recipients of unemployment benefit II (according to SGB II), there is the possibility of applying for what is known as the entry allowance (Einstiegsgeld) to promote a business start-up. It is granted as a discretionary benefit and is paid in addition to unemployment benefit II. Your case manager at the job centre concerned will decide on the awarding and amount of this optional benefit.

As well as the entry allowance, if they take up or exercise an independent activity for the production of goods, claimants of unemployment benefit II may also receive services aimed at the integration or rehabilitation of self-employed persons in accordance with § 16c SGB II (loans and subsidies).

Further information can be obtained from your Jobcenter.

##### Coaching – Support programmes

Both in the time before the foundation or takeover of a company and in the first years after its foundation, professional consulting can have a positive influence on the development of a company. The business founder faces many questions in this phase:

- Who can support me in drawing up the business plan?
- Who can support me in the preparation of financing discussions?

- Who can support me in the strategic orientation of the company?
- How can I optimize my product or service?
- How can I build new customer relationships?
- How do I create a marketing and sales concept?

If you are looking for intensive support on these and other business topics, you can rely on the experience of a professional coach. Each support programme offers information on the choice of consultant. In order to receive a grant, the consultant must be admitted to the respective programme. The following coaching grants are available:

##### Pre-start-up and succession coaching in Bavaria

Coaching offers the opportunity to take advantage of targeted advice for around three months. The start-up project is supported even before foundation as a full-time business or before the acquisition or takeover takes place. A maximum of ten consultant days with a maximum daily rate of 800 € can be applied for. Up to 70 % of the consultant fee is subsidised, with a maximum total subsidy of 5,600 €.

Detailed information on consultant selection and application at [ihk-muenchen.de/coaching](https://ihk-muenchen.de/coaching)

##### BAFA Coaching „Promotion of Entrepreneurial Know-How“

Coaching enables companies that have already been established to receive a subsidy for individual consulting for six months. Companies are supported in the first two years after establishment as a main or secondary occupation. Grant amount: 4,000 € maximum eligible consultancy costs, 50 % of which are subsidised in Bavaria. For certain target groups and topics, special advice can also be promoted. Examples: women, migration background or recognised disability. After the first two years, further funding opportunities will be offered. An information meeting with your IHK is a prerequisite for funding. Support will be provided under special conditions within this support programme for companies which have been on the market for more than two years or which have been in economic difficulties. Detailed information and business founders' comments on the funding programmes:

[ihk-muenchen.de/coaching](https://ihk-muenchen.de/coaching)

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➔ [ihk-muenchen.de/coaching](https://ihk-muenchen.de/coaching)

#### Support within the framework of regional structural policy

In some parts of Bavaria, business start-ups can benefit from state aid to promote structurally weak regions. This assistance is available, for example, for

- areas eligible for assistance under the joint Federal Government/Länder scheme for improving regional economic structures, and
- rural areas as defined by the Bavarian Development Programme (LEP).

In addition, prospective restaurateurs, guesthouse owners and hoteliers can use the Bavarian State Government's promotional programme to strengthen municipal tourism infrastructures. Further information on regional funding in Bavaria can be found at: ➔ [stmwi.bayern.de/service/foerderprogramme/regionalfoerderung](https://stmwi.bayern.de/service/foerderprogramme/regionalfoerderung)

### 4.4.6 Examples of publicly funded support: innovative start-ups

#### INVEST – Venture capital grant

INVEST offers a 20 % subsidy on the amount an investor invests in your company. This programme increases the attractiveness of your company for investors. Approval for this grant is given first and only when a contract is concluded with an investor does he or she receive the subsidy. It is important to apply for approval only if there is a concrete need, as the INVEST grant certificate expires after 6 months and must be applied for again. The minimum amount of investment is 10,000 €, the maximum 500,000 €.

You can find more information on this at:

➔ [bafa.de/DE/Wirtschafts\\_Mittelstandsfoerderung/Beratung\\_Finanzierung/Unternehmensberatung/unternehmensberatung\\_node.html](https://bafa.de/DE/Wirtschafts_Mittelstandsfoerderung/Beratung_Finanzierung/Unternehmensberatung/unternehmensberatung_node.html)

#### EXIST–Gründerstipendium

EXIST start-up grant is a nationwide funding programme which supports innovative start-ups from universities and non-university research institutions in an early phase. EXIST start-up grants support the development of a product/service idea and the elaboration of a business plan through to the establishment of a company.

##### Who is supported?

- Scientists from universities and non-university research institutions
- University graduates or former academic staff or students who have completed at least half of their studies at the time of application
- Start-up teams up to a maximum of 3 persons.

##### What is funded?

Innovative knowledge-based services based on scientific findings.

##### How is funding provided?

For one year the founders receive a salary and a subsidy for material expenses and coaching.

#### FLÜGGE: Business start-ups from universities in Bavaria

The Bavarian funding programme FLÜGGE supports research activities which are intended to prepare for easier transition into a start-up business of one's own. University graduates can work for up to 18 months as part-time employees at their higher education institution parallel to the conception phase of their business start-up, thereby securing their livelihood.

In addition to a university degree, the prerequisite for application is an innovative business idea from the production or service sector that is backed up by a promising business plan. The founders are supervised by a university lecturer and at least one business start-up coach. The application for FLÜGGE funding is submitted by the universities.

Guidelines, application forms and the address of the project management organisation can be found at:

➔ [fluegge-bayern.de](https://fluegge-bayern.de)

#### BayTOU: Promotion of technology-oriented start-ups in Bavaria

BayTOU promotes, independent of technology and industry, technologically and economically risky development projects which are related to the establishment of a company. Support can begin as early as the conception phase with the working up

of the technological-economical basis. Grants are awarded at a maximum rate of 40 % of the eligible costs for a development project.

For technological work in the concept phase, the funding amounts to a maximum of 26,000 €. In the case of software development, the maximum funding amount is 150,000 €. Eligibility requirements, among others:

- Company age less than 6 years
- Company has fewer than 10 employees
- It must be a new product, a new process or a new technical service that clearly demonstrates competitive advantages and market opportunities due its technical novelty.

Further information can be found at:

 [bayern-innovativ.de/seite/baytou](https://bayern-innovativ.de/seite/baytou)

Advice on the BayTOU programme can also be obtained by calling the free central telephone number ☎ 0800 0268724.

### Innovation vouchers Bavaria

The Bavarian support programme „Innovation vouchers for small businesses/craft enterprises" is a classic among support programmes. The guideline was revised on 01.01.2019: founders and small innovative companies in Bavaria can look forward to further simplifications and new upper limits.

There are two innovation vouchers (Innovationsgutscheine/IG): IG Standard and IG Spezial. The upper limit for eligible costs has been doubled to 30,000 € for IG Standard and 80,000 € for IG Spezial. The basic subsidy remains at 40 %. It can be increased up to max. 60 % for

- microenterprises with fewer than 10 employees (+10 %),
- commissioning of scientific institutions (+10 %) and
- companies in regions with special need for action (+10%).

### Who is supported?

- Small companies with up to 50 employees
- Trade/craft enterprises
- Liberal professions
- Start-ups and entrepreneurs

### What is promoted?

- Services provided by external research and development partners, for example
- Technical feasibility studies
- Material and concept studies
- Prototype construction and product tests for quality assurance

More information can be found at:

 [innovationsgutschein-bayern.de](https://innovationsgutschein-bayern.de)

### Start?Zuschuss!: Promotion of digital business start-ups in Bavaria

The Start?Zuschuss! grant programme supports technology-oriented start-ups in the field of digitisation that are in the start-up phase.

Applications are open to start-ups with a particularly innovative business model that were founded a maximum of 2 years ago.

Up to 50 % of the eligible expenses for rent and personnel, market launch and research and development are funded – up to a maximum of 36,000 € per year. Applications for the programme are submitted through a two-stage procedure: a competition procedure with a fixed submission date and a subsequent funding application for selected applicants.

Guidelines, deadlines and explanations can be found at:

 [gruenderland.bayern/finanzierung-foerderung/startzuschuss](https://gruenderland.bayern/finanzierung-foerderung/startzuschuss)

### Technology-specific funding programmes in Bavaria

The Free State of Bavaria promotes innovative research and development projects in a number of technology areas:

- Information and communication technology
- Electronic systems
- Electric mobility and innovative drive technologies for mobile applications
- New materials
- Medical technology
- Biotechnology and genetic engineering
- Innovative energy technologies and energy efficiency

The aims of the R & D programmes are to support new, innovative companies of the future and to improve cooperation between companies and universities and research institutes.

Funding is provided for research projects that are carried out in cooperation between companies and universities or in cooperation between several companies.

An eligible project must meet the following requirements, among others:

- Research or development of innovative, technological and risky innovations in the respective funding area
- Economic feasibility
- Participation of at least one company and one research institution or of at least two companies from Bavaria in each case

For companies, support is provided up to a maximum of 50 % of eligible personnel, material, external services and special individual costs (pro rata of time and project costs).

Further information on the programmes can be found at:

➔ [stmwi.bayern.de/service/foerderprogramme/technologiefoerderung](https://stmwi.bayern.de/service/foerderprogramme/technologiefoerderung)

## 4.5 Insurance: operational and personal protection

Whether a young company, a medium-sized company or a large corporation – every company lives with general and specific operational risks. General risks can affect any company; these include natural hazards such as lightning, hail, storm, fire, burglary and theft.

When choosing the right insurance, the company founder must not only keep an eye on these universal risks but also on his specific protection needs. He must soberly weigh up which insurance he actually needs – fully comprehensive cover is not affordable anyway due to exorbitantly high premiums.

### 4.5.1 Operational insurance cover

#### Liability insurance

Possible claims for damages and legal claims by third parties represent a major source of danger for a young company. Therefore, public liability is one of the most important insurances for the company founder. It offers protection against the financial consequences of damage caused to third parties by the business, for example if a customer is injured by falling goods. Public liability also covers damage caused by employees to customers or suppliers as well as possible damage caused to employees by misconduct on the part of the business operator. Although liability insurance is prescribed by law only for some professional groups, e. g. for auditors, tax consultants, notaries and attorneys, doctors, dentists and other professionals are in violation of their professional duties if they do not sufficiently insure themselves against liability claims. In any case, liability insurance is one of the insurances that no freelancer, dealer or business operator can do without.

#### Property insurance (examples)

- Fire insurance: one of the most important insurances for any business. It covers damage caused by fire, explosion and lightning to buildings, equipment and business inventory, including the costs of cleaning, demolition and firefighting.
- Burglary insurance: this policy guarantees compensation if insured items are stolen, damaged or destroyed. Third-party

property such as borrowed machines and vehicles may be included in the insurance cover by specific terms of contract. Simple theft by customers and employees is excluded.

- Insurance against water damage from the water supply system: protection against the financial consequences of relevant water damage to buildings, goods and equipment.
- Business interruption insurance: if fire or storm have paralyzed your business or if important machines fail, wages and salaries, rent and interest continue to run. Business interruption insurance can provide help. This policy can also be bundled with other property insurance policies.
- Transport insurance: provides cover in case of accident, fire or break-in to a parked vehicle as well as theft of the vehicle and its contents.

### 4.5.2 Personal insurance cover

#### Principle of individual responsibility

Efficient social systems are a hallmark of the „German model“. The first laws regulating health, accident and pension insurance were introduced over a hundred years ago, followed by unemployment insurance in 1927 and long-term care insurance in 1995. Due to the statutory insurance of employees within certain income limits, a very high proportion of the population is covered by the social insurance network. In emergencies ALG II secures the subsistence minimum, in case of illness, unemployment and need of care social insurances prevent financial breakdown.

For self-employed people on the other hand there is no social safety net comparable to that of the employee. The legislator tacitly presupposes that entrepreneurs can and want to bear a high measure of self-responsibility. Unfortunately, things sometimes look different in practice. Newspapers regularly report on the social decline of failed entrepreneurs and on small-scale business people who are unable to pay their rent in old age because they have never invested a cent in their own old-age pension provision. Although this topic is barely mentioned in the discussion forums on Germany's culture of entrepreneurship, the examples mentioned show that even start-ups, too, begin as early as possible to provide for their social security.

The following explanations serve only as a guide. Please clarify the individual questions in the respective individual cases with the legal or private insurance providers due to the rapidly changing legal regulations and jurisdiction.



### 4.5.3 Self-employed, employed or ostensibly self-employed?

Whether a person is pursuing a self-employed or employed occupation depends on the overall circumstances. As a rule, the decisive factor for being employed is having a waged occupation. In the case of self-employment, it is important that the economic risk is borne by the individual and that the profit and loss of the company have a direct effect on personal income. In addition, the employment of employees who are subject to social insurance contributions (or of several part-time employees with a total salary of more than 450 €) is also an indication that self-employment is the case. This does not always apply, for example, in the case of commercial agents who are guaranteed a basic salary of a certain amount. Even in the case of occupations known as mixed types, e.g. shareholders of a company, it cannot always be assumed that they are self-employed.

The various forms of self-employment are described below. Since health insurance is statutory for the entire resident population, this section deals with the special features of individual occupational groups in the area of statutory health insurance and pension insurance.

#### Farmers

Business operators in agriculture and forestry, including winegrowing, fruit-growing, vegetable growing and horticulture, pond farming and fish farming, whose companies reach a minimum size, are statutorily insured in the areas of health and long-term care insurance and old-age pension provision. There is also an obligation to take out accident insurance, irrespective of the size of the company (see point 6).

#### Artists and authors/journalists

The artists' social insurance law applies to self-employed artists and authors. It provides for statutory insurance for this group of persons or membership of the artists' social insurance fund (KSK), provided that certain conditions are met:

- The artistic or journalistic activity is not carried out purely on a temporary basis
- In connection with the artistic or journalistic activity no more than one employee is employed, unless it concerns a marginally employed person or the employment is in the interests of vocational training
- The activity takes place mainly in Germany
- The minimum income limit of 3,900 € or 325 € per month per year is reached (exceptions apply for those just starting out)

An artist is someone who creates, practices or teaches music, performing or visual arts. These include, for example, painters, (artistic) photographers, sculptors, singers and musicians. But self-employed designers in the fields of graphics, multimedia, textiles, fashion and industrial design can also belong to the field of insurance. The same applies to teaching activities, for example as carried out by a music teacher.

A journalist/author ("Publizist") is anyone who is active as a writer or journalist or has any other kind of occupation concerned with writing or who teaches a subject concerned with writing professionally.

The artists' social insurance offers this group of people protection in the form of pension, health and long-term care insurance. The persons insured in the Künstlersozialkasse, like employees, pay only half of the insurance contributions. Statutory accident insurance is not part of the Künstlersozialkasse.

For health insurance contributions (general contribution rate 14.6 %), the share of the insured person is 7.3 %. In addition to this, the individual additional contribution is to be paid by the artist (2019: 0.9 %). The contribution rate for long-term care insurance in 2019 is 3.05 %. The insurance share thus amounts to 1,525 %. Those insured who do not have children pay a supplementary contribution of 0.25 %.

In pension insurance, the contribution rate is set at 18.6 %. Accordingly, the artist pays a contribution of 9.3 %.

### Good to know



*Other federal and EU technology support programmes can also be used by young companies. However, these programmes always require the company to be able to carry out the research project themselves in terms of personnel and funding. Since newly founded companies often have a high proportion of borrowed capital, especially in the initial phase, the funding provider normally requires a bank guarantee. Interest-ed young companies should therefore first seek advice from the relevant offices.*

*By the way: the Chamber of Commerce and Industry for Munich and Upper Bavaria offers an initial overview of the various funding opportunities for innovations in regular, free funding consultation hours. Current dates and registration at: [ihk-muenchen.de/foerdersprechstunde](https://www.ihk-muenchen.de/foerdersprechstunde)*

## An example

*The annual income of a childless artist is 20,000 €. Statutory health insurance charges an individual additional contribution of 0.9 %. This results in the following contributions.*

### Health insurance:

- 1/2 share of the general contribution rate (7.3 %) 121.67 €
- Individual health insurance contribution rate (0.9 %) 15.00 €

### Nursing care insurance:

- 1/2 share of the contribution rate for childless persons (1.775 %) 29.58 €

### Pension insurance:


- 1/2 share of contribution rate (9.3 %) 155.00 €

**In total = 321.25 €**

The other half is borne by the KSK, which finances the necessary funds from a federal grant and from a levy on companies that exploit artistic and journalistic/authoring services. These companies using the services of writers currently pay an additional 4.2 % as an artists' social security contribution. The assessment basis for this is the fees paid to self-employed artists or writers.

Artists and writers should contact the Künstlersozialkasse directly if they have any questions.

Artists' social insurance Service Center:

 04421 9734051500

 [kuenstlersozialkasse.de](https://www.kuenstlersozialkasse.de)

### Shareholder and/or managing director at:

#### ■ GbR and OHG

In civil law partnership (GbR) as well as in general partnership (OHG), partners working in the sense of social insurance law are self-employed. They are not subject to the full insurance obligation of an employee and are regarded as co-owners. Even if they are entrusted with management powers and receive a special salary for this, this insurance obligation does not apply.

#### ■ Limited partnership (KG)

The KG has at least one general partner and one limited partner as shareholders. The general partners are fully liable partners. Profit and loss of the company have a direct effect on the business operator's salary. So they are „self-employed people“.

It is different with limited partners. They are considered employees if they not only have a shareholder function but are also employed in the company and are generally subject to statutory insurance. An exception exists only if the limited partner accepts the management by shareholder resolution and is not limited by the general partners.

#### ■ GmbH or enterprise company (Unternehmergesellschaft)

The extent to which the managing director or shareholder of a GmbH enjoys or is obliged to take out insurance depends on various criteria. Thus it is to be determined in principle whether a self-employed or not self-employed activity is exercised. Self-employment is usually to be assumed with a partner, if he or she substantially exercises the economic power of the enterprise. This is always the case with a majority holding (at least 50 % of the company's share capital). But partners with a share of less than 50 per cent of the share capital are also to be regarded as self-employed if they are active as managing partners and not bound by instructions. Possible questions should be clarified in good time with the responsible health insurance company.

The aforementioned remarks apply equally to the shareholders of an entrepreneurial company.

#### ■ Stock corporation (AG)

In accordance with the regulations on statutory pension insurance, members or deputy members of the Management Board of a stock corporation are not employees. This group of persons is therefore not subject to pension and unemployment insurance.

#### ■ Partnership company

In the case of a partnership company, which can only be founded by freelancers, the individual partners are regarded as self-employed, just as in the case of the GbR or OHG in the assessment under insurance law. As a rule, they are not subject to any social security obligation as they are not in any dependent relationship with the partnership company.

### Ostensible self-employment in the social insurance system

The assessment by social benefit providers as to the extent to which an employed (ostensibly self-employed) or self-employed occupation exists is carried out in accordance with the Social Code and the relevant case law. Indications for employed occupation or ostensible self-employment are present in particular if:

- An activity is carried out according to instructions.
- No persons subject to social insurance contributions are employed.
- There is an integration into the work organisation of the instructing party.
- The business operator has previously carried out the activity with the client as an employee.
- The activity is performed on a permanent basis and essentially only for one client.
- The client employs employees subject to social insurance contributions in the same field of activity.

Before establishing the business it should be determined precisely whether there is a situation of ostensible self-employment. This can be examined, for example, by means of a status determination by the German Statutory Pension Insurance Scheme (Deutscher Rentenversicherung Bund) on request by either the employer or the contractor/employee. If you have any questions regarding social insurance status, you can obtain information from the German Statutory Pension Insurance Scheme in advance. The application required for determining status can be downloaded from the Internet. Questions and information can be found at:

German Statutory Pension Insurance Scheme service hotline:

☎ 0800 1000 480 70

🌐 [deutsche-rentenversicherung.de](https://www.deutsche-rentenversicherung.de)

### Good to know



*If the German statutory pension insurance scheme later determines that a person is ostensibly self-employed, the employer automatically receives the status of employer and the ostensibly self-employed person automatically receives the status of employee.*

*This has consequences for both parties in terms of employment law, social security law and tax law.*

*Status determination can also lead to a classification as a statutorily insured self-employed person.*

### 4.5.4 Health Insurance

Health insurance is an important pillar of social security. In order to give every citizen access to health insurance, the legislator has exerted influence by introducing statutory health insurance for the entire resident population. In principle, self-employed persons can choose between statutory and private health insurance.

In the case of full-time self-employment (see section on „Self-employed secondary activity“), there is no possibility – even if there is no profit for the time being – of remaining or becoming insured as a member of the family under the statutory health insurance of the spouse during a transition period.

#### Option

Initially, the self-employed person has the option of voluntarily continuing statutory health insurance on the basis of a previously existing insurance policy.

In concrete terms, voluntary membership presupposes that the person concerned has been insured for at least 12 months without interruption immediately before terminating the previous membership or has been legally insured for at least 24 months in the past 5 years. Membership of statutory insurance must be notified in writing within 3 months of termination of the previous membership. Voluntary membership follows seamlessly on from the previous membership and can be ended by cancellation.

As well as the statutory health insurance funds, the founder of a new business also has the option of concluding a contract with a private health insurance company or continuing his or her existing insurance there.

#### Complementary insurance/statutory insurance

Complementary insurance applies to all self-employed persons, provided that they have not already taken out sickness cover by means of the aforementioned options.

At the same time, this insurance and the following standard policyholder insurance does not automatically lead to the right of accession to one of the two classes of insurance. Assignment to the systems based on previous insurance plays an essential role here. Complementary insurance has the effect that at the end of membership or of family insurance the insurance automatically continues on a voluntary basis.

Complementary insurance is not valid if

- new insurance cover is taken out without a break or
- the member declares his resignation within two weeks of notification by the health insurance provider and provides evidence of other sickness insurance.

## Good to know



*The self-employed person should immediately apply for health insurance cover. That means, whether he or she decides on a statutory or private health insurance fund, timely establishment of contact with the appropriate insurance provider is essential.*

*Otherwise, there is a risk that contributions must be paid in arrears at a not inconsiderable level due to the retrospective start of the insurance cover.*

## Statutory health insurance

The benefits provided by the statutory health insurance scheme are listed in the Social Security Code (SGB V). The benefits catalogue of the statutory health insurance funds is largely identical. However, within the framework of optional tariffs, there is the possibility of participating in different forms of cover (e. g. general practitioner model, individual sickness benefit, contribution or premium).

Also the combination of the statutory health insurance with a complementary private insurance policy e. g. for hospital daily allowances may make sense.

### Entitlement to benefits in kind

Basically, the statutory health insurance (Gesetzliche Krankenversicherung, GKV) consists of a claim for benefits in kind. This means – apart from surcharges – being able to visit physicians, dentists, pharmacies, hospitals and other contract partners of the health insurance funds without needing to make any cash payment, mainly thanks to the electronic health card (with ID photo).

### Reimbursement

All insured persons have the option of choosing the cost reimbursement procedure instead of the material or service reimbursement procedure. In this case, you are bound to the cost reimbursement procedure for at least one calendar quarter.

## Sickness benefit entitlement

For full-time self-employed persons, the right to sickness benefit is initially excluded by law. In return, they pay the health insurance contribution at the reduced premium rate.

However, the full-time self-employed person can declare to the health insurance fund (elective declaration) that membership is to include sickness benefit from the beginning of the 7th week of incapacity for work. This then means that the premium payment to the health insurance provider is due at the general premium rate. A sickness benefit entitlement before the start of the 7th week of incapacity for work as a „statutory variant“ is not possible.

The payment of sickness benefit in the event of incapacity for work depends on the amount of lost earnings. If no income is earned in an individual case, the health insurance fund will also not pay sickness benefit. The „statutory“ sickness benefit is a maximum amount of 105.88 € per calendar day (value 2019).

In addition to the „statutory sickness benefit“, the health insurance funds offer various optional tariffs. These may also include, alongside the comprehensive coverage of the loss of income, and in the same way as „statutory sickness benefit“, the start of payment before the 7th week or the payment of sickness benefit beyond the maximum level. If a tariff is selected, separate premiums are payable for this in addition to the health insurance contribution. You can find out about the specific regulations from the health insurance company concerned.

### Premium or contribution

#### Revenue subject to contributions

The calculation for self-employed persons, as for all voluntarily insured persons in the GKV system, is based on economic performance. In principle, all income of the member is taken into account. The basis for this is the income tax assessment. Premiums are initially determined provisionally on the basis of the latest assessment available. A corresponding correction and thus reimbursement or additional claim will be made after submission of the relevant assessment for the respective year. If no or only a low income is achieved, the premium is calculated from a fictitious minimum income (**ATTENTION:** New minimum assessment ceiling from 1 January 2019 for all self-employed persons: 1,038.33 €).

If necessary, however, the financial situation of the joint household (e. g. including spouse, civil partner) must be taken into account. The statutory health insurance funds provide advice on the details.

The upper premium limit is determined on a nationwide basis by the annual adjustment of the income threshold (2019: 4,537.50 €). Surcharges, e. g. for preexisting conditions, are not levied.

### Rate of premium

The premium rate for all statutory health insurance funds is a uniform 14.0 % (reduced premium rate without sick pay entitlement) or 14.6 % (general premium rate with sick pay entitlement). The Health Fund distributes the funds to the statutory health insurance providers according to a specified key. If the income of a health insurance provider is not sufficient, it can levy an additional %-age premium from the insured individual. This is collected together with the remaining premium.

### An example



*The insured person is insured with entitlement to sickness benefit from the 7th week (union rate 14.6 %). The individual premium rate is 0.9 %. This results in a total premium rate of 15.5 %.*

#### Minimum assessment ceiling:

minimum amount  
 $(1,038.33 \text{ €}) \times 15.5 \% = 160.94 \text{ €}$

#### Maximum assessment ceiling:

maximum amount  
 $(4,537.50 \text{ €}) \times 15.5 \% = 703.31 \text{ €}$

### Family insurance

Insofar as the self-employed person is insured under the statutory health insurance scheme and his or her family members also receive insurance cover, they will continue to be insured under the voluntary insurance scheme under certain conditions even without an increase in premiums.

The members of the family are co-insured in the statutory health insurance system without additional premium, provided that, among other things, they

- do not have their own income of more than 445 € (value 2019) monthly, e. g. from rental income, and
- are not full-time self-employed (see section „Self-employed secondary activity“).
- regardless of this, for marginally employed persons, the total permissible income is 450 €.

For children for whom one parent is not a member of the statutory health insurance system, the following special features apply:

Children are not covered by statutory health insurance if

- the spouse or life partner of the member who is related to the children is not a member of a statutory health insurance fund and
- his or her total monthly income regularly exceeds 1/12 of the annual earnings limit (2019: 5,062.50 € nationwide) and is regularly higher than the total income of the member.

However, it is possible to accept the child as a voluntarily insured member of the statutory health insurance fund.

For employees who have been insured with a private health insurance company on an equivalent basis since 31 December 2002, an annual earnings limit of 4,537.50 € per month applies for 2019. Further information, however, should be obtained from the health insurance fund.

However, children who are no longer covered by family insurance as a result of the aforementioned exclusion regulation can also be voluntarily insured by the statutory health insurance fund if they meet the pre-insurance period. The pre-insurance period is fulfilled if the child itself or a parent from whom the family insurance is derived has a pre-insurance period of 12 months or 24 months within a 5-year period. The new complementary insurance would also take effect here.

### Self-employed secondary activity

The extent to which an activity is a self-employed secondary activity must be determined in each individual case. The assessment is carried out by the health insurance fund.

The GKV Spitzenverband has formulated some principles for delimitation. Thus a person is assumed to be in full-time self-employment if the economic value and time spent on that activity exceed those of other paid occupations.

If, however, persons are in paid employment for at least 20 hours a week and the monthly wage in 2019 is over 1,557.50 €, it is assumed that there is not enough time for full-time self-employment. This is usually assessed differently however if the monthly income from self-employment regularly exceeds the salary.

### Self-employed secondary activity of students

As a rule, students are covered by family insurance if their parents are members of a statutory health insurance scheme.

This applies

- only up to the age of 25 (the insurance cover is extended by the length of any statutory military or civilian service completed or of the federal voluntary service/voluntary social or environmental year which have been possible since 2011)
- and if no monthly income of more than 445 € is achieved. If a student exceeds the age limit, he can legally insure himself in his own right and then has lower contributions to pay to the student health insurance fund. Insurance is possible if
- the age limit of 30 years is not exceeded
- the student has not yet completed more than 14 semesters, and/or
- has not pursued any employment subject to statutory insurance or a full-time self-employed activity.

Students under the age of 25 can also take out student health insurance. However, in this case too self-employed activity alongside a course of study will result in an examination of the "full-time self-employed activity".

Since there are no precise statutory provisions in this regard, assessment by the social insurance institutions is predominantly based on judgements of the social courts.

## Private health insurance

The coverage entitlement of persons insured by a private health insurance company (Private Krankenversicherung, PKV) is defined individually in the contract or in the insurance conditions. There is therefore no legally guaranteed or regulated entitlement outside the basic tariff. This should be taken into account when evaluating very low tariffs.

In contrast to the GKV system, PKV insured persons can only apply to the insurance company for reimbursement of their expenses and act as contractual partners themselves vis-à-vis the service provider (doctors, hospitals, etc.). Depending on the insurance company, it is sometimes possible to assign claims (e.g. for hospital treatment).

### Premiums or contributions

The income of the self-employed person plays no role in the payment of premiums. Premiums are determined individually for the insured person, taking into account personal factors such as age, occupational risk and previous illnesses. Premiums therefore remain unchanged, even if, for example, the income situation deteriorates. Part of the premium is used to set aside old-age provisions for the insured person in order to keep the premium stable in old age. Irrespective of this, however, private health insurance also regularly undergoes premium adjustments due to the develop-

ment of costs in the health care system.

There is no premium co-insurance for family members.

### The basic tariff

The range of coverage on this tariff is comparable in type, scope and amount to the coverage of statutory health insurance. The costs for the (further) treatment of already existing illnesses are covered by the basic tariff from the start of the insurance policy, there are no „waiting periods“. The treatment of insured persons on the basic tariff is guaranteed by the medical and dental insurance associations. The basic tariff provides for statutory acceptance. The insurance companies cannot therefore reject anyone who has the right to insure himself on this tariff. Risk surcharges or exclusions of coverage are not permitted here. The maximum premium is regulated by law and is calculated from the general contribution rate (14.6 %) multiplied by the current value of the income threshold (2019: 4,537.50 €) The average additional premium of the statutory health insurance is added (2019: 0.9 %). This results in a total of 703.31 €. In case of financial need, the individual premium is also halved for the duration of the need on provision of proof.

Even those who already have private health insurance and have concluded an insurance contract after 1 January 2009 can switch to the basic tariff. Under certain conditions – in particular from the age of 55, as a pensioner or in the case of financial need – those with existing health insurance can switch to the basic tariff of their insurer with contracts concluded before 1 January 2009. It is advisable to seek advice in this regard from the respective private health insurance company.

### Switching to statutory health insurance

A return to statutory health insurance is no longer possible in self-employment. Membership can only be reestablished through unemployment with benefits from the Federal Employment Agency. Likewise, there is an obligation to take out insurance when entering into a new dependent employment relationship (with income below the assessment threshold).

In most cases, however, those 55 years of age and older can no longer return to the statutory health insurance scheme even if they take up an employment relationship that is subject to statutory insurance or are in receipt of unemployment benefit I or II. If, however, no income or income of no more than 435 € can be earned from a secondary occupation as a self-employed person, a return to statutory insurance for this older group of persons may be possible via family insurance.



In the event that someone was privately insured and is required to change to statutory health insurance due to taking up an activity requiring statutory insurance, the private insurance can be terminated at any time within one month, backdated to the beginning of the insurance obligation. This means that there is no double payment during any temporary overlap.

#### 4.5.5 Nursing care insurance

Long-term care insurance is another pillar of basic social security and is used to support persons in need of long-term care. Insurance benefits are paid in the form of home or inpatient care. Applications must be submitted to the care insurance fund/health insurance fund of the insured person.

In principle, contributions are levied nationwide at the current rate of 3.05 % (value 2019) of the gross wage. For childless members, the contribution increases by 0.25 %. This does not apply to insured persons who have not yet reached the age of 23 or who were born before 01.01.1940.

In the calculation, the contribution assessment thresholds provided for in the statutory health insurances apply.

#### Statutory insurance

In principle, all members of the statutory health insurance scheme are required to be insured for long-term care. Members of the private health insurance scheme must ensure coverage through a private insurance policy. Voluntarily insured persons as well as pensioners, students etc. are also subject to statutory insurance. Voluntary members, however, have the option of applying for exemption within 3 months of the commencement of the statutory insurance if proof of private insurance can be provided. For example, anyone starting a new business who is voluntarily insured can choose between private or statutory long-term care insurance.

#### Good to know



*Those who leave their statutory long-term care insurance scheme cannot become members again as self-employed persons. Spouses and children are insured free of charge only the statutory long-term care insurance. Private insurance, on the other hand, charges an additional premium for the spouse. However, children are also insured free of charge.*

### 4.5.6 Pension insurance

Pension provision is essentially based on two pillars: the statutory pension systems (statutory pension insurance, pension funds, artists' social insurance, agricultural pension funds) and private old-age provision, some of which is subsidised by the state. For the majority of the population, the benefits from the statutory pension systems represent the most important source of income in old age.

Since all persons in occupation as employees are generally insured under the statutory pension insurance scheme, the self-employed person (apart from the exceptions in the following section) must himself take measures for this insurance cover. Nevertheless, the statutory pension is an important component for many self-employed persons.

#### Statutory insurance of the self-employed person in the statutory welfare systems

There are groups of people who are subject to pension insurance. This is based on various legal regulations such as the SGB VI and the Artists' Social Insurance Act or statutory membership in a professional chamber.

This includes the following professional groups:

1. Business operators in agriculture and forestry,
2. Persons subject to statutory membership in a professional chamber of the liberal professions are often insured in a pension scheme. These include, for example, doctors, architects, lawyers, pharmacists, engineers and tax consultants. The first point of contact for this group of persons is therefore the respective occupational pension fund (addresses and information available from the consortium of professional pension funds, [abv.de](https://www.abv.de)),
3. Artists and writers in accordance with the provisions of the Artists' Social Insurance Act. These include, for example, journalists, painters, actors, musicians, music teachers, designers, graphic artists, copywriters,
4. Teachers and educators. These terms are interpreted broadly. The group of persons includes teachers, fitness trainers, dance and tennis instructors as well as childminders. This is subject to the condition that the individual does not regularly employ any employee subject to statutory insurance\* in connection with their self-employment activity,

5. Care providers working in the care of patients, infants or children or providing weekday foster care (provided that they mainly work on the basis of a doctor's prescription) and who do not regularly employ an employee subject to statutory insurance\* in connection with their self-employment. These include, for example, physiotherapists and speech therapists,
6. Midwives and maternity nurses,
7. Pilots of pilotage waterways in the sense of the law on the sea pilot system (Seelotsen),
8. Inshore skippers and inshore fishermen belonging to the crew of their vessel or fishing as coastal fishermen without a vessel and regularly employing no more than four employees subject to statutory insurance,
9. The following distribution applies to trades- and craftsmen who operate a craft subject to licensing in Annex A of the business regulations:
  - In the case of sole proprietorships, statutory insurance exists for the registered tradesman.
  - In the case of partnerships, statutory insurance exists for all shareholders who fulfil the requirements (e.g. the master craftsman examination) for entry in the register of skilled trades. There is no pension insurance obligation for the other shareholders.
  - In the case of corporations, there is no pension insurance obligation for the shareholders.
  - There is no statutory insurance for business operators who fall within the scope of craft trade not requiring approval (Annex B1) as well as for craft-like trades (Annex B2).

#### Good to know



*Self-employed craft trade workers can, if statutory contributions have been paid for them for at least 18 years, be exempted from statutory insurance upon application. This also includes contribution periods from occupation in employment. The possibility of exemption is pointed out automatically by the insurance provider shortly before the time runs out.*

10. Operators of home businesses (Hausgewerbetreibende) and intermediaries

In addition, there is the requirement to be insured in the statutory old-age pension scheme due to the order situation.

\*As a general rule, self-employed persons are not subject to statutory insurance if they employ employees subject to statutory insurance. However, this does not apply to the employment of so-called Minijobbers. In this case, the insurance obligation for the self-employed remains in force. If more than one person is employed with a pay of less than 450 € sum of the amounts applies. If, for example, two employees together earn 500 €, this is considered employment subject to social insurance contributions. Then there is no insurance obligation for the self-employed.

The following group of persons is affected:

11. Self-employed persons who, in connection with their self-employed activity, do not regularly employ an employee subject to statutory insurance (see footnote p. 47) and who work on a permanent basis and essentially for only one customer (self-employed persons with a contract). This group may include, for example, commercial agents or insurance agents.

For this group, there are two ways to be exempted from the obligation to take out insurance upon becoming self-employed:

- Upon application, persons starting a new business are granted temporary exemption from the pension insurance requirement for a period of three years after first taking up self-employment. Problems may arise here regarding pension entitlement due to reduced earning capacity, since a condition is that statutory contribution payments must have been made for three years in the last five years.
- Persons older than 58 years who are now subject to the insurance requirement following a previously practised self-employed occupation may be permanently exempted from the insurance requirement. An application must be submitted here, too.

### Duty to report

Compulsorily insured self-employed persons must register with the pension insurance provider within three months of becoming self-employed. Violations of the reporting obligation are subject to punishment as an administrative offence with a fine.

### Contribution

Self-employed persons subject to pension insurance have two options to choose from (values 2019):

#### without proof of income

- Regular contribution (579.39 € west/533.82 euro east)
- In the first three years of self-employment half the regular contribution (289.70 € west/266.91 € east) possible

#### with proof of income

- Payment according to actual income
- Must be applied for by the person establishing the business
- Contribution rate 18.6 %

- Maximum limit is the maximum contribution (1,246.20 € west/1,143.90 € east)

Explanation of the calculated variables.

The amount of the monthly contribution is initially calculated on the basis of the average salary in the pension insurance scheme (reference value).

Reference value: 3,115 € (west)/2,870 € (east).

If evidence of an earned income deviating from the reference value (or from half the reference value) is provided, this income forms the basis for calculating the contributions, i. e. a contribution rate of 18.6 % is levied on the proven income. The maximum contribution results from the current income threshold for pension insurance (2019: 6,700 € west/6,150 € east).

Income from work is the profit from self-employment determined in accordance with the general profit determination regulations of income tax law.

### Multiple insurance

If a statutorily insured self-employed person also still works as an employee, this results in multiple insurance up to the contribution assessment ceiling. This means that pension insurance is statutory for both self-employed and employed persons.

### Self-employed secondary activity

A self-employed secondary activity which basically triggers an insurance obligation (see again „Statutory insurance“) remains exempt from insurance if it is a minor self-employed activity. This is the case if the earned income (national) does not exceed 450 € per month. Freedom of insurance also exists irrespective of the amount of income if, within a calendar year, the paid occupation exceeds the period of three months or 70 working days. If several (fundamentally insurable) minor self-employed activities are carried out, these must be added together. In this case, the insurance obligation applies if the marginal income threshold is exceeded.

### Voluntary insurance in the statutory pension scheme

The majority of self-employed persons self-employed are not obliged to pay into one of the statutory welfare schemes. Nevertheless, insurance under the statutory pension scheme can be a useful component of old-age provision.

Most founders of a new business have already paid into the statutory pension insurance scheme as employees. First it should be determined whether a pension entitlement already exists. This is the case if five years of contributions have been made.

If these five contribution years have not yet been reached, minimum membership can be established and a pension entitlement secured by paying voluntary contributions. Persons who waive this option and do not reach five years of pension insurance contributions will be paid out upon application upon reaching the standard age limit (65 years and 6 months for those born in 1952, and gradually increased to 67 years by the end of 2030).

Voluntary insurance can be started and ended at any time. It should be noted, however, that for the previous calendar year voluntary insurance can only be applied for up to 31 March of the following year. The payment amount can be determined by the insured person. Contributions are to be paid from an earned income up to the income threshold. The maximum amount is derived from this. The minimum amount is determined nationally on the basis of 450 €.

Minimum contribution: monthly 83.70 € (nationwide)

Maximum contribution: monthly 1,246.20 € (west)/1,209.00 € (east).

In the case of the old-age pension for persons having been insured for a particularly long period (previous insurance period of 45 years), contributions paid voluntarily also count, provided there are also statutory contribution periods (e.g. due to employee contributions, family periods, etc.) for at least 18 years. Depending on the year of birth, this old-age pension enables earlier entry into a retirement pension without deductions (entry into retirement for the year of birth 1954 currently possible at 63 years and 4 months).

To what extent and under what conditions voluntary continued insurance is sensible for you is best clarified in a personal consultation with your pension insurance company (see page 52 for contact details).

### Statutory insurance on request

The self-employed person has the option – if he is not already subject to statutory insurance – of being statutorily insured on application. In this way, he obtains the same insurance cover as the self-employed who are statutorily insured. The application for statutory insurance must be made within five years of the start of self-employment. However, once the statutory insurance upon application has been taken out, it is not possible to withdraw the application, i.e. the entrepreneur remains subject to statutory insurance for the duration of the self-employment.

When considering whether to make use of the right to voluntary insurance or statutory insurance on application, the following points should be taken into consideration:

- With insurance several risks can be insured at the same time in the statutory old age pension insurance. These include rehabilitation, reduced earning capacity (usually only with statutory insurance), old age and death.
- Cover is granted without personal risk classification such as for age or health condition.
- In the case of statutory insurance on application, entitlement to a supplement for the Riester pension is continued or acquired.
- The contributions are secure from garnishment before retirement and are treated as special expenditures from a taxable point of view.

### Supplementary income for pension payments

Recipients of an old-age pension may earn additional benefits without restriction when they reach the standard age limit (65 years and 6 months as of the year of birth 1952). There will then be no reduction in the pension payment.

However, an income from self-employment could mean that there is no need for low-cost insurance via the health insurance fund. It may then only be possible to take out voluntary insurance, but this would entail higher costs, especially as all income such as rental income is included in the calculation of contributions.

In the case of an early old-age pension, only an additional income of 6,300 € per calendar year is possible up to the standard retirement age, otherwise pension reductions would be incurred. This also applies to the old-age pension based on an insurance period of 45 years, provided that it is claimed before reaching the standard retirement age.

Similarly, if a full reduced earning capacity pension is drawn, only an additional income of 6,300 € per calendar year is permissible, otherwise pension reductions will be incurred. The situation is different with a partial reduction in earning capacity pension. Higher incomes are permissible here. However, the income limit must be calculated individually by the pension insurance provider depending on the entitlement of the person concerned.

The additional income of 6,300 € for early retirement pension and reduced earning capacity pension applies to both self-employed and employed occupations.

Income from renting, leasing and investments is not taken into account.

### Occupational disability and reduced earning capacity

In addition to the old-age pension, provision for occupational disability must also be taken into consideration. More and more people cannot work up to the standard retirement age for health reasons. In most cases, the statutory pension insurance only provides protection for reduced earning capacity.

Inability to work presupposes that one can no longer carry out an occupation for which one is qualified. Full reduction in earning capacity, on the other hand, presupposes that one cannot exercise any activity (no matter how qualified) for more than three hours a day.

Coverage by (additional) private occupational disability insurance is highly recommended here. Even with the coverage provided by the statutory reduced earning capacity pension, it is generally very difficult to ensure sufficient income to live on.

### The reduced earning capacity pension of the statutory pension insurance scheme

Persons born after 01.01.1961 do not receive an occupational disability pension. Nevertheless, they are entitled to a reduced earning capacity pension. However, this entitlement can only be maintained for self-employed persons by paying statutory contributions. This presupposes statutory insurance based on the job description or statutory insurance on application.

A person who is able to work less than three hours a day receives the full reduced earning capacity pension. Half a reduced earning capacity pension is paid if you are able to work for more than three hours but less than six hours. If no part-time job is available, a claim to the full pension can be made. Anyone who is able to work for more than six hours does not receive a reduced earning capacity pension from the statutory pension insurance.

Special features apply to persons born before 02.01.1961. They still enjoy professional protection and receive half the pension if they are able to work less than six hours in their learned profession or a comparable profession.

### Protection through voluntary contributions

Voluntary continued insurance is only possible to cover the reduction in earning capacity if contributions have been paid for at least 60 months up to the end of 1983 and every month since January 1984 has been covered by pension periods. If the periods are not documented accordingly, entitlement to a reduced earning capacity pension cannot be maintained by the payment of voluntary contributions.

Persons establishing new businesses should in any case contact one of the pension advisory offices and clarify to what extent continued insurance should be taken out insofar as this is not prescribed by law.

### Private old-age pension provision

Private old-age pension provision is becoming increasingly important as a second mainstay. In many cases, statutory provision will not suffice and must be supplemented by one's own private pension. The state funded old-age pension provision is intended to compensate for the declining pension level in the future.

Private pension provision is a complex issue, so it is not possible to provide an idea of different investment strategies at this point. Only the two state-subsidised products are presented below.

### Basic pension (known as the "Rürup" pension)

As a form of state-supported supplementary old-age provision, a „basic pension“, known as the Rürup pension, is offered by private providers and financial service providers.

This is a private pension insurance comparable to the statutory pension with the following features:

- Payout only as a personal lifelong pension from the age of 62 at the earliest (for new contracts from 2012)
- Capital option and policy loans are not possible
- Occupational disability insurance and survivors' benefits can be included at an extra charge
- No charge on protected assets (Schonvermögen) if in receipt of unemployment benefit II
- Secure from garnishment during the savings accumulation period, creditors have access only the start of the pension payout period

- Funding is not provided in the form of direct allowances but in the form of tax benefits
- No statutory premium amount, in principle flexible payments possible during the term (not offered by all contractual partners)

The contributions paid for the Rürup pension can be deducted as special expenses on the tax return. It is particularly worthwhile for the self-employed person as a basic provision and for employees with a high tax burden. For families with children and those earning a normal salary, the company pension or the Riester pension is usually the better option. Statutorily insured self-employed persons in the statutory pension insurance should carefully weigh up the advantages and disadvantages in comparison to the Riester pension.

### "Riester" pension

The „Riester pension“ is a supplementary private old-age provision which is subsidised by the state with allowances and tax advantages.

The state subsidy can be granted to self-employed persons who are statutorily insured in the statutory pension insurance scheme.

However, they are not eligible for

- compulsorily insured persons in a professional pension scheme (e. g. doctors, lawyers) and
- voluntarily insured persons.

Beneficiaries may include, among others:

- Employees
- Persons bringing up children in the home (in the first three years)
- Military and alternative civilian service personnel
- Carers not in paid employment
- Under certain conditions, recipients of earnings replacement benefits
- Minijobbers, if statutory contributions to the statutory pension insurance are paid

## Good to know



*Spouses of beneficiaries can receive state support if they conclude their own pension contract in their own name.  
Example: If a person's wife is statutorily insured as an employee in the statutory pension insurance scheme, her self-employed husband with private pension can also receive the subsidy if both conclude a corresponding contract.*

The law does not prescribe any specific forms of provision. However, it lays down certain criteria which must be met in order for a state subsidy to be granted, i. e. only contracts with certification are eligible for state subsidy. However, certification is not a seal of quality. It does not confirm that the product is profitable and safe. Private pension plans are mainly private pension schemes, bank and fund savings plans. They can be concluded, for example, with life insurance companies, credit institutions or financial service providers. But a company pension scheme is also eligible if it is implemented in the form of direct insurance, pension funds or pension funds. Certification is not mandatory for these forms of occupational pension provision. Since contributions to state-subsidised old-age provision are tax-free, they are not taxed until they are paid out at a later date.

The state subsidy consists of directly paid income-independent allowances and, possibly, in addition, of benefits through the deduction of special expenses from income tax. However, the full allowances are only paid if the pension expenditure (own contributions plus allowances) reaches a certain level. If the own contribution is lower, the allowances are reduced proportionately. The basic allowance is 175 €, the child allowance 185 € per child (300 € for births from 2008).

Riester products are also secure against garnishment during the savings accrual phase and are not counted as protected assets if unemployment benefit II is received. Creditors can only gain access from the start of the pension payout period.

Information on both products can be found online at:

- ➔ [deutsche-rentenversicherung.de](https://deutsche-rentenversicherung.de)
- ➔ [verbraucherzentrale.de](https://verbraucherzentrale.de)
- ➔ [ihre-vorsorge.de](https://ihre-vorsorge.de)

as well as from the "Zulagenstelle" as follows:

- ☎ 03381 21222324
- @ [zulagenstelle@drv-bund.de](mailto:zulagenstelle@drv-bund.de)
- ➔ [zfa.deutsche-rentenversicherung-bund.de](https://zfa.deutsche-rentenversicherung-bund.de)



## Protection against garnishment

For self-employed persons, the possible risk of business failure is also associated with financial burdens that can lead to insolvency. When selecting private pension products, self-employed persons should therefore take into account the extent to which they meet the requirements for the protection of old-age provision against garnishment. The legislator has created a legal basis to safeguard the minimum subsistence level of the self-employed even in the event of insolvency.

Contracts concluded must fulfil some essential conditions:

- Payment only as a personal lifelong pension from the age of 60 at the earliest or in the event of occupational disability
- Claims arising from the contract may not be disposed of
- The designation of third parties, with the exception of surviving dependants, as entitled parties is excluded
- The payment of a lumpsum benefit, with the exception of a payment in the event of death, has not been agreed

The reserves protected from garnishment are staggered according to age. In the case of pension payments, creditors have access within the statutory limits for garnishment.

## Who can help me?

*The local information and advice centres of the Deutsche Rentenversicherung do not only offer assistance and orientation with questions about statutory old-age pension provision. In an „intensive discussion on old-age pension provision“ they can also analyse the personal pension situation.*

## Contacts

### Deutsche Rentenversicherung Bayern Süd

Thomas-Dehler-Str. 3	Gabelsbergerstraße 7
81737 München	93047 Regensburg
☎ 089 6781-3700	☎ 0941 7989-0

Kohlbruck 5c, Gelände der Klinik Passau  
Kohlbruck  
94036 Passau  
☎ 0851 95614-0

### Deutsche Rentenversicherung Nordbayern

Dämmer Tor 1	Wittelsbacherring 11
63741 Aschaffenburg	95444 Bayreuth
☎ 06021 3520-0	☎ 0921 607-2020

Bamberger Str. 15	Äußere Bayreuther Straße 159
96450 Coburg	90411 Nürnberg
☎ 09561 23143-0	☎ 0911 23423-100

Friedenstraße 12/14  
97072 Würzburg  
☎ 0931 802-3030

### Deutsche Rentenversicherung Schwaben

Dieselstraße 9  
86154 Augsburg  
☎ 0821 500-2121

### 4.5.7 Unemployment insurance

The Federal Employment Agency in Nuremberg is responsible for unemployment insurance. The task of this social insurance agency is to take labour market policy measures in order to avoid or eliminate unemployment. If this cannot be achieved, unemployment insurance serves to provide financial security for the affected workers during the period of unemployment. If the given conditions (unemployment, availability) are fulfilled, entitlement to unemployment benefit exists once the qualifying period has been completed. This is the case if the applicant has been employed for at least 12 months subject to statutory insurance or voluntarily insured as a self-employed person in the last two years prior to unemployment registration and application.

If self-employment follows on from a period of unemployment, the existing entitlement can be claimed again within four years. The four-year period begins on the first day on which the entitlement to unemployment benefit is fulfilled and not on the day on which the business is established.

In principle, all workers, salaried employees and trainees who are employed for remuneration are subject to insurance. The amount of the contribution is calculated on the basis of the employee's gross monthly wage. The contribution rate is 2.5 % (value 2019). It is to be paid half each by the employee and the employer, up to the income threshold of the pension insurance (2019: 6,700 € west/6,150 € east). Taking into account the rate of 1.25 %, both the employer and the employee are generally required to pay up to a maximum of 83.75 € (west)/76.88 € (east) per month. Contributions to unemployment insurance are raised by the respective statutory health insurance fund.

The duration of the unemployment benefit entitlement is staggered and in the case of an insured employment relationship is:

- 12 months to 6 months
- 16 months to 8 months
- 20 months to 10 months
- 24 months to 12 months
- 30 months to 15 months, but only after reaching the age of 50 years,
- 36 months to 18 months, but only after reaching the age of 55 years.
- 48 months to 24 months, but only after reaching the age of 58.

#### Unemployment insurance on request

Persons establishing a new business can insure themselves against unemployment, provided that the self-employed activity is actually carried out for at least 15 hours a week. However, statutory insurance on application is only possible if the applicant has been in a statutory insurance relationship for at least 12 months within the last 24 months prior to taking up self-employment or has received a corresponding benefit payment. No other insurance obligation may exist.

This so-called „statutory insurance relationship on application“ begins on the day on which the self-employed person takes up the self-employed occupation. The application must be filed within three months of taking up the activity. In this case, the insurance cover also applies retroactively for three months.

A new member who enters into a statutory insurance relationship on application can terminate the contract after five years with three months' notice to the end of a calendar month. In addition, the insurance relationship ends if the self-employed person receives a benefit payment, ceases self-employment or is more than 3 months in arrears with the payment of contributions.

The amount of the contribution to be paid is calculated on the basis of the reference fig., i.e. monthly 3,115 € west/2,870 € east (values 2019). In the case of persons establishing a new business, 50 % of the reference figure is used in the year of establishment and in the following calendar year, of which 2.5 % is calculated. This results in a monthly contribution of 38.94 € (west)/35.88 € (east). In the case of unemployment, the unemployment benefit is calculated nominally, i.e. according to flatrate amounts depending on the applicant's qualifications.

The following gross daily rates are used to calculate unemployment benefit:

	WEST	EAST
UNSKILLED PERSON	60.90 €	53.90 €
SKILLED WORKER	81.20 €	71.87 €
MASTER CRAFTSMAN	101.50 €	89.83 €
ACADEMIC	121.80 €	107.80 €

A new entitlement arises only after payment of unemployment insurance contributions for 12 months.

### Employment of family members

If there is an intention to employ family members in one's own company, a so-called status determination should be carried out beforehand. In other words, what activities does the family member actually carry out? Does the family member carry out work which is normally the responsibility of the owner (e. g. personnel decisions, large investments, general representation of the boss)? Then it is quite possible that in the event of unemployment, e. g. caused by insolvency, no unemployment benefit will be paid by the Employment Agency. This may mean that there is no entitlement to unemployment benefit, even though one has paid into the unemployment insurance scheme for many years. Co-business operator status may be established if the family member has not only exerted influence on the business activity, but has also participated in its success and failure.

### 4.5.8 Statutory accident insurance

Statutory accident insurance is characterised by the assumption of employer's liability. Employees who suffer damage to their health as a result of their insured activity therefore have no direct claim against their employer, but against the statutory accident insurance institution. This avoids disputes between employer and employee on the question of guilt in the event of an accident at work.

In the trade/freelance sector, statutory accident insurance is divided into nine employers' liability insurance associations, each of which is structured according to sector (see list on p. 55).

The Social Insurance for Agriculture (Sozialversicherung für Landwirtschaft, SVLFG) is responsible for agriculture, forestry and horticulture sector.

### Statutorily insured group of persons

The group of insured persons basically includes all employees (including those in mini-jobs) as well as apprentices during initial and continuing vocational training.

Self-employed persons may be statutorily insured by law or by the articles of association of the employers' liability insurance association.

Insured by law are

- Self-employed persons in agriculture, forestry and horticulture
- Coastal fishermen and coastal sailors
- Operators of home businesses (Hausgewerbetreibende) and intermediaries
- Self-employed persons in the field of health care/welfare care (these include e. g. geriatric nurses, podiatrists, physiotherapists and masseurs. At the same time, for example doctors, psychotherapists, alternative practitioners and pharmacists are excluded from the insurance obligation).

Insured by virtue of the articles of association are

- Self-employed persons under the responsibility of the employer's liability insurance association for transport and traffic (except shipping),
- Self-employed persons in meat processing,
- Self-employed persons in the field of textile manufacturing and textile working,
- Self-employed persons in the field of media productions
- Self-employed persons in the hairdressing trade and in some cases, under certain conditions, an exemption from statutory insurance by virtue of the articles of association is possible.

## Obligation to register when setting up a business

The entrepreneur is obliged to inform the competent business association of the following within one week of the establishment of the business:

- Type and purpose of the business
- Number of insured persons
- The start of the business

By means of this it is then determined whether there is an obligation to pay contributions. The contributions are levied after the end of the calendar year to be calculated. If a company consists of different branches of industry (entire company), the employers' liability insurance association for the main branch of industry is generally responsible.

In the case of commercial business start-ups, a copy of the business registration will be sent to the relevant business association. This ensures that information on new business start-ups is available. However, it does not release the self-employed person from the obligation to register directly. Subsequent claims can be avoided by timely registration of the company, as the contributions can still be claimed retroactively for four years after the end of the calendar year of the due date.

### Voluntary business insurance

Other entrepreneurs have the option of taking out voluntary insurance. It is also interesting for business start-ups, as the loss of earnings due to an accident at work can be compensated by the employers' liability insurance association. Considerable insurance protection can be granted.

Voluntarily insured persons have, among other things, the advantage that – with a few exceptions – they can determine the amount to be insured independently of their actual income within the minimum and maximum limits set by the respective employers' liability insurance association. However, the sum insured should be based on actual income.

Not only commercial entrepreneurs can take out voluntary insurance, freelancers also have this option. As a rule, the administrative employer's liability insurance association is responsible for freelancers (exceptions apply to media professions and healthcare).

Membership is granted upon written application to the responsible professional association.

### Insurance events

Insurance events are:

- Occupational accidents
- Accidents on the way to or from work
- Occupational illnesses

After the occurrence of such an insured event, the employer's liability insurance associations offer services for:

- Benefits for medical rehabilitation
- Benefits for participation in working life
- Maintenance and other supplementary benefits
- Care or care allowance
- Pension benefits for insured persons or surviving dependants

Insurance benefits will only be paid in the event of damage occurring related to gainful employment.

### Payment of contributions

The administrative employer's liability insurance associations collect their contributions at the end of the calendar year. The calculation is based on the insured person's remuneration and a risk class that depends on the number and severity of accidents in a branch of industry.

New hires or dismissals during a contribution year are not to

be reported immediately, but the total amount of remuneration (proof of remuneration) is requested by the employers' liability insurance association at the end of the year. In individual cases, the pension insurance institution checks the remuneration statement on behalf of the employer's liability insurance association, which must be transmitted electronically.

Further information on occupational accident insurance and on questions of membership or statutory contributions by business operators and self-employed persons can be obtained from (German Statutory Accident Insurance (Deutsche Gesetzliche Unfallversicherung DGUV) at [dguv.de](https://www.dguv.de)

### Addresses of the Employers' Liability Insurance Associations

ADVISORY CENTRE	ADDRESS	PHONE	INTERNET
Berufsgenossenschaft Handel und Waren-logistik (BGHW)	M5, 7 68161 Mannheim	☎ 0621 1830	🌐 bghw.de
Berufsgenossenschaft der Bauwirtschaft (BG Bau)	Hildegardstraße 28/30 10715 Berlin	☎ 030 857810	🌐 bgbau.de
Berufsgenossenschaft Holz und Metall (BGHM)	Isaac-Fulda-Allee 18 55124 Mainz	☎ 0800 99900800	🌐 bghm.de
Verwaltungs-Berufsgenossenschaft (VBG) <sup>a)</sup>	Massaquoiassage 1 22305 Hamburg	☎ 040 51460	🌐 vbg.de
Berufsgenossenschaft Nahrungsmittel <sup>*1)</sup> und Gastgewerbe (BGN)	Dynamostraße 7 – 11 68165 Mannheim	☎ 0621 44560	🌐 bgn.de
Berufsgenossenschaft Rohstoffe und chemische Industrie <sup>b)</sup>	Kurfürsten-Anlage 62 69115 Heidelberg	☎ 06221 51080	🌐 bgrci.de
Berufsgenossenschaft Energie Textil Elektro Medienerzeugnisse (BGETEM) <sup>*2)</sup>	Gustav-Heinemann-Ufer 130 50968 Köln	☎ 0221 37780	🌐 bgetem.de
Berufsgenossenschaft für Verkehrswirtschaft Post-Logistik Telekommunikation (BG Verkehr) <sup>*3)c)</sup>	Ottenser Hauptstraße 54 22765 Hamburg	☎ 040 39800	🌐 bg-verkehr.de
Berufsgenossenschaft für Gesundheitsdienst und Wohlfahrtspflege (BGW) <sup>*4)d)</sup>	Pappelallee 33/35/37 22089 Hamburg	☎ 040 202070	🌐 bgw-online.de
Sozialversicherung für Landwirtschaft, Forsten und Gartenbau (SVLFG) <sup>*5)</sup>	Weissensteinstraße 70-72 34131 Kassel	☎ 0561 7850	🌐 svlfg.de

#### (a) Responsible, inter alia, for:

- Banks
- Insurance
- Administrations
- Lawyers
- Tax consultants
- Engineers
- Experts
- Commercial agents
- Insurance agents
- Travel agencies
- Security companies
- Temporary employment
- Ceramic and glass industry
- Tramway/subway and railroads
- Companies for which there are no other employers' liability insurance associations

#### (b) Responsible, inter alia, for:

- Building materials – stones – soils
- Mining
- Chemical industry
- Leather industry
- Paper production and equipment
- Sugar

#### (c) Responsible, inter alia, for:

- Goods transport
- Passenger transport
- Funeral homes
- Driving schools
- Inland navigation/seafaring/aviation
- Equestrian and stables businesses
- Car rentals
- Industrial cleaning
- Disposal industry
- Car wash and care

#### (d) Responsible, inter alia, for:

- Medical and dental practices
- Alternative practitioners
- Pharmacies
- Outpatient care services
- Hairdressing
- Cosmetics companies
- Day care facilities for children
- Entrepreneurs in the field of alternative therapies (e.g. reiki, kinesiology, TCM)
- Laboratories and research companies in the field of health care and veterinary services
- Foot care providers
- Physiotherapists
- Pest controllers

<sup>\*</sup>) These employers' liability insurance associations provide statutory insurance for business operators as a result of the respective provisions of their statutes. Under certain conditions, however, some employers' liability insurance associations offer a possibility of exemption from membership.

1) Statutory insurance for business operators and their spouses or life partners working in meat handling and meat processing companies.

2) Statutory insurance of business operators for types of enterprises belonging to the textile sector (production and processing) or media production sector (including the production of visual works, graphic design, commercial and freelance photographer).

3) Statutory insurance of business operators for all types of companies under the responsibility of the employers liability insurance association (with the exception of seafaring).

4) Statutorily insured business operators are, for example, chiropodists, physiotherapists, masseurs, day-care personnel, occupational therapists, operators of outpatient care services, pest controllers, operators of private day care facilities for children, entrepreneurs in the field of alternative healing therapies (e.g. reiki, kinesiology, TCM) and hairdressers.)

5) Statutory insurance of business operators for all types of businesses that are subject to the jurisdiction of the SVLFG.

### 4.5.9 Compensation procedure

#### Compensation procedure for incapacity for work

Continued pay insurance is a statutory insurance for employers who do not regularly employ more than 30 persons. If an employer has several companies, the number of employees must be added together. Insurance is provided by the health insurance funds with which the employees are insured. For privately insured persons, the health insurance fund to which the pension and unemployment insurance contributions are paid is responsible. For part-time employees, the Minijob office is responsible. The aim of the insurance is to reduce the economic risk in smaller companies in the event of continued payment of wages in the event of illness. In principle, companies are reimbursed 80 % of their expenses. The statutes of the respective health insurance fund can provide for reimbursement rates of between 40 % and 80 %. The employer has to pay a contribution for the continued payment of wages, the amount of which depends on the employees' remuneration and the respective reimbursement rate. Reimbursement takes place from the first day of continued payment. Any claims should be clarified in good time with the relevant health insurance fund.

When determining the number of employees, all employees are included regardless of their insurance status and their health insurance affiliation. In the case of part-time employees, the weekly working hours are taken into account.

Not to be counted **are**

- those employed for their vocational training (apprentices and trainees),
- early retirees and
- severely disabled workers and workers treated as such

The insurance obligation is determined when the business is established and is initially only valid until the end of the year. It is renewed at the beginning of each calendar year.

#### Maternity compensation procedure

The compensation procedure for employers' maternity costs covers all employers, regardless of their number of employees. The expenses that the company has to pay in the event of maternity are reimbursed at 100 %. This includes maternity allowances for the period of maternity leave and paid wages in the case of employment prohibitions. Employers' social security contributions are also refundable. The health insurance funds provide information on details of reimbursement procedures.

### 4.5.10 The social insurance funds

Collective agreements provide for statutory insurance in a pension fund or social security fund for the employment of employees in many sectors. For example, any company in the construction sector in the broadest sense may be covered by collective agreements. SOKA-Bau is also responsible for companies in the dry construction sector.

The federal framework collective agreement for the construction industry regulates whether a company is to be regarded as a construction business. Companies which, in terms of working time, carry out construction activities for more than 50 per cent of their total working time participate in the social security fund procedure.

Other sectors such as gardening and landscaping, painters, roofers and scaffolders have separate social insurance funds. Details should be discussed with the social insurance funds.





## 5. Putting it into practice– the launch of your business: Go-live!

### 5.1 Business registration and formalities

#### 5.1.1 Registering a business

According to the Trade and Craft Regulation (GewO), the operator of a business must register an activity in a trade with a fixed place of business with the competent authority. For self-employed activity in an itinerant trade, an itinerant trade card is usually required (see again chapter 4.1.4).

The decisive passage for trade with a fixed place of business can be found in § 14 para. 1 GewO and reads as follows.

"Any person starting the self-employed operation of a trade with a fixed place of business, a branch or a dependent branch, must indicate this to the responsible authority at the same time. The same applies if

1. the operation is relocated.
2. the object of the trade is changed or extended to goods or services which are not customary in the trade of the type declared, or
3. the operation is abandoned."

Business registration takes place with using form Annex 1 of the trade notification regulation (Gewerbeanzeigeverordnung, GewAnzV; see example in the appendix). The trade office of the municipality in which the company is located is responsible for receiving the business registration. Registration must be submitted before or at the same time as the commencement of the activity. Please note that business registration does not entitle the holder to operate a business if any permit required has not yet been obtained or if entry in a register (e.g. trade register) is still required. It also does not release you from further formalities (e. g. applying for a company number at the Federal Employment Agency or registering with the employers' liability insurance association). Registrations, reregistrations and deregistrations submitted late are subject to punishment as administrative offences.

#### Who has to register?

The obligation to register applies to the business operator concerned: in the case of a sole trader, this is the owner. Legal entities (e.g. GmbH, AG) are themselves trade operators for whom their legal representatives (e. g. managing directors, board members) register the trade. In the case of a partnership under civil law (GbR), a general partnership (OHG) and a limited partnership (KG), each partner authorised to manage the business must register the business. If another shareholder joins the company at a later date, he must also register the business.

#### Business registration by electronic or written means or in person

In addition to registration of a business in person, registration can also be done electronically or in writing (e. g. by fax). In the case of electronic registration, the trade authority may request a copy of the identity card or passport to be sent in order to establish identity or determine identity using other suitable procedures (e. g. PIN/TAN procedure). However, in order to avoid administrative queries, it is advisable for the entrepreneur to file the registration in person. This requires the presentation of a valid passport or identity card.

#### Registration by an authorised representative

On presentation of written authorisation, an authorised representative of the business operator may make the declaration.

#### Branch/independent branch office

The obligation to register also applies to branch offices and dependent branch offices. An example of this is a distribution warehouse with customer traffic.

#### Installation of vending machines

Anyone installing vending machines of any kind as an independent business must register the business with the authority responsible for its main place of business. The business operator is obliged to display his or her surname with at least one first name written out in full, his or her address at which a court summons may be served and the address of his or her principal place of business visibly on the machine. Business operators for whom a company is registered in the commercial register must also indicate their company visibly on the machine. If the name of the business operator with first name written out in full can be derived from the company name, showing the company name is sufficient. For the installation of play equipment with the possibility of earning money, a permit from the competent district administrative authority (§ 33c GewO) is required.

### 5.1.2 The business licence

The competent trade office must confirm receipt of the business registration within a period of three days. This acknowledgment of receipt is called a business licence (Gewerbeschein). It is also imperative that you observe the instructions usually shown on the reverse. The trade offices forward the information mentioned in § 14 paragraph 8 GewO to the following offices, among others:

- Bavarian State Statistical Office
- Tax office
- Trade supervisory office (with the district governments)
- Chamber of Commerce and Industry
- Chamber of Trades and Crafts
- Federal Employment Agency
- German statutory accident insurance association (for forwarding to the professional association concerned)
- Customs administration authorities
- Bavarian State Office for Health and Food Safety

However, the disclosure is limited to the information permitted under data protection law.

### 5.1.3 Registration with the tax office

Business registration also fulfils the fiscal reporting obligation with regard to the tax office according to § 138 para.1 of the tax code (AO). Normally the self-employed person automatically receives a corresponding message from the tax office. If this response takes more than 2 weeks, the business operator should actively inform the tax office about the start of his business activity.

Anyone taking up a freelance activity must notify the responsible tax office within one month of taking up the activity.

The „Questionnaire for tax registration“ is usually used for this notification as well as for the registration of a commercial activity with the tax office (see example in the appendix). The timely submission of this form is also recommended in order to obtain an official, separate tax number for the self-employed activity as quickly as possible. Without this it is impossible to invoice correctly!

## The tax number

The trader must fill in the operational start questionnaire in due time and return it to the tax office. If the self-employed person has already started the business or is about to start it, he will receive his tax number from the tax office with the following standard text:

„...the tax office has assigned you the tax number 222/33333. It applies to the following tax types:

- corporate income tax
- value added tax and for the
- determination of the uniform base level of trade tax
- determination of the unit value of business assets
- separate determination of equity
- separate determination of share value

Please quote the tax number for all submissions to the tax office ...“

So this tax number is then valid for

- income tax
- sales tax
- trade tax
- wage tax for employees

## 5.2 The first employees

### 5.2.1 Vocational training/apprentices

Well-trained specialists from within your own company ensure not only the long-term existence of the company, but also the well-being of the economy as a whole. Chambers of Commerce and Industry and Bavaria's Ministry of Economic Affairs therefore do their utmost to support companies with the aim of creating training places and enabling young people to undertake training. However, training companies must meet the following basic requirements:

- Depending on the training occupation, the company must have a certain minimum level of equipment and employ an appropriate number of skilled workers.
- The trainer in charge is required to have completed a vocational training course or a course of study in a specialisation corresponding to the training occupation as well as appropriate professional experience.
- In addition, they must have vocational and occupational training knowledge. This is proven by means of examination.

If these requirements are met, the company can begin vocational training. According to the Vocational Training Act, however, the locally responsible Chamber of Commerce and Industry ultimately decides whether a company is suitable for providing training or not. The advice and examination for this takes place by means of an „aptitude assessment“. The business operator must complete a short questionnaire in advance. This is followed by a visit by the IHK training consultant.

Further information can be obtained from the Chambers of Commerce and Industry at your location.

### 5.2.2 Recruiting employees

The creation of new jobs is one of the most responsible tasks of the business operator. Ideally, the new colleagues will „fit“ with the company philosophy and the existing team. In today's practice, this requires a more or less complex selection procedure. The employment contract forms the formal conclusion of these human resources decisions. When the employee is hired, he or she must present their social security card and, in order for the employer to call up the electronic wage tax deduction characteristics (ELStAM), must provide his or her date of birth and tax identification number, as well as whether the employment relationship is the main one or a secondary one. Foreign employees also require a residence permit and a work permit.

The foreigners authority responsible (Landratsamt or kreisfreie Stadt) and the employment office issue both documents. (see also Chapter 5.2.3)

In principle, verbally concluded employment contracts are also legally valid, but in practice there are practically no permanent employment relationships without a written employment contract – it is also recommended for business operators for reasons of evidence. The „Act on Evidence for Conditions Essential for an Employment Relationship“ (Nachweisgesetz-NachwG) in any case obliges employers to provide the employee with a signed written record of the following points no later than one month after the agreed commencement of work:

- name and address of the contracting parties
- start of employment relationship
- in the case of fixed-term contracts: the foreseeable duration of the employment relationship; note: according to the Part-Time and Fixed-Term Contracts Act, the fixed-term employment contract must be agreed in writing before the start of the contract
- place of work or the indication that the employee may be employed at different places of work
- short characterisation or description of the activity
- amount and composition of remuneration including bonuses, allowances, premiums, special payments and other components of remuneration and their due date
- working hours
- annual vacation
- periods of notice
- reference to collective agreements, works agreements or service agreements applicable to the employment relationship.

If essential contractual conditions change, the employer must notify the employee of this in writing within one month.

The Evidence Act does not apply to employees who are hired as temporary help for a maximum of one month. The employer must also note that an official medical examination of the employee is required before starting work in certain activities such as food retailing and gastronomy.

A general statutory minimum wage has been in force in Germany since 01.01.2015. For certain industries, the minimum wage law also prescribes the documentation of working hours. Recording obligations also exist – irrespective of the sector – for all marginally employed persons (exception: private households). Minimum working conditions, including pay and documentation obligations, may also result from other legal provisions, such as the Employee Secondment Act. The wage (even if it exceeds the statutory minimum wage) must also not be immoral. There is no fixed limit here. Case law assumes that the agreement of

a remuneration which does not even reach 2/3 of a standard wage is immoral.

In some sectors, collective agreements have been declared generally binding. They are therefore also binding for each individual agreement. Information can be obtained from the respective employers' association.

### Payroll tax

The employer must declare the income tax of his employees (usually monthly), withhold it and transfer it to the relevant tax office. Wage tax returns must always be submitted electronically or with an electronic certificate. Only in exceptional cases does the tax office permit the submission of the application in paper form upon request. Info at [elster.de](https://www.elster.de).

The amount of income tax can be found from the respective income tax table, which is available from retailers. A payroll account must be kept for each employee. For further information, please contact the tax authorities. If wage tax deduction characteristics are missing, the employer must calculate the wage tax from the gross wage according to tax class VI. This comes into consideration in particular if

- the employee does not inform his employer of the tax identification number and the date of birth required for retrieving the electronic wage tax deduction characteristics (ELStAM) at the beginning of the employment relationship, or
- the employee had the generation of the ELStAM blocked at the tax office or
- transmission of the ELStAM to the employer is blocked.

In certain exceptional cases, the employer must base the wage tax calculation – for a maximum period of three calendar months – on the expected wage tax deduction criteria. There is also the option of flatrate income tax calculation in certain cases.

#### ■ Taxation according to the individual wage tax deduction characteristics:

In the tax classes I, II, III and IV no wage tax is deducted in the case of so-called low-income employment as long as the employee does not earn any further income. If the employee earns his or her living by working in several jobs, he or she must inform his or her employer whether this is the main or a secondary employment relationship. In the latter case, wage tax must be deducted in accordance with tax class VI.

- **Flat-rate wage tax:** the income of part-time and marginally employed employees can be taxed by the employer at a flat

rate of 2 or 20 % under certain conditions. A flat tax rate of 25 % applies to shortterm employees. Church tax and solidarity surcharge are also levied. Employers must also pay social security contributions.

- **Procedure tip:** if the business operator has doubts about the permissibility of a flat rate, he should pay tax on the remuneration according to income tax class VI. In this way he prevents the tax office from taking action against him at a later date.

### Regulation of marginal employment

In the case of marginally employed workers, the employer is obliged to keep a declaration concerning further employment with his pay documents, as well as a written statement from the marginal employee confirming that the employer must be notified of the commencement of further employment. This is also relevant insofar as the employer is retroactively liable for social security contributions in the event of wilful or grossly negligent failure to clarify the facts of the case under social insurance law.

#### Definition:

"Marginal employment" exists if remuneration from employment does not regularly exceed 450 € per month.

- For employers: flat-rate tax and social security contribution.
- The employer pays a flat-rate tax of 30 per cent of the earnings. Of this amount, 15 % is intended for statutory pension insurance, 13 % for statutory health insurance and two % for income tax including church tax and solidarity surcharge. In addition, the employer must pay contributions of around 2 % as well as contributions to the statutory accident insurance scheme.
- For employees: in part free from tax- and social insurance. The earnings from marginal employment remain tax-free for the employee and are also exempt from health, long-term care and unemployment insurance. However, there is a fundamental obligation to contribute to the statutory old-age pension insurance scheme. The portion to be borne by the employee themselves is calculated as the difference between the flat rate amount paid by the employer (15 per cent) and the general contribution rate. The employee can, however, be exempted from the pension insurance obligation upon application by notifying the employer of this in writing. The MiniJob Centre shall decide on the application.
- Several marginal jobs are added together. If the 450-€-limit is exceeded, all jobs are subject to social insurance contributions. The obligation to insure does not arise until the collection agency or the pension insurance institution provides

notification of this. This does not apply if the employer has deliberately or with gross negligence failed to clarify the facts for the insurance assessment of the employment.

- It is only possible to have one part-time job in addition to a main job subject to social insurance contributions. As a rule, every further mini-job is subject to social insurance contributions, even if the 450 € are not exceeded.
- The central collection point for mini-jobs is the Minijob Centre of the German pension insurance provider "Knappschaft Bahn-See". Info: [minijob-zentrale.de](https://minijob-zentrale.de)
- Apart from the obligation to register with the Minijob Centre, there is also an obligation to register and contribute to the statutory accident insurance scheme. For part-time employees in the commercial sector, the beginning, end and duration of the daily working hours must be recorded within seven days and kept for two years.
- If the employer's flatrate contributions of 30 % (with a tax portion of two %) is not permissible due to the addition of several jobs, the employer can levy a flat rate wage tax of 20 % for a part-time job, nevertheless plus solidarity surcharge and any church tax. The individual tax amounts must then be registered and paid at the respective tax office for the place of business as part of the income tax registration procedure.
- Simplified procedure for employers and employees in private households: Information on the amount of contributions and the simplified budget check procedure can be obtained from the Minijob Centre.

### The business number in the social security registration procedure

Employers submit social security declarations for their employees subject to social insurance contributions. The legal basis for this is § 28a Fourth Book of the Social Code (SGB IV). In order for businesses to be able to participate in the automated registration procedure for social insurance, they need a business number. It is an important regulatory feature in the field of social security (cf. § 18i (1) SGB IV).

#### When is a business number required?

A business number is required upon the hiring of the first employee (450 € employees, employees subject to social insurance contributions, apprentices).

#### How can the business number be applied for?

Since 1 January 2017, business numbers must be applied for electronically due to the new legal regulation of § 18i Para. 1 SGB IV. The corresponding online application is available at [arbeitsagentur.de/unternehmen/betriebsnummernservice](https://arbeitsagentur.de/unternehmen/betriebsnummernservice). There, the business number can be automatically assigned and displayed directly online around the clock and without waiting

time in a variety of situations.

#### Who is entitled to apply?

The application for a business number can be made by the employer himself or by an authorised third party (e.g. tax consultant).

#### Must the business number service be informed about changes to business data?

Yes! According to § 18i Abs. 4 SGB IV changes to business data are to be communicated. This includes in particular the name and address(es) of the employing company, the focus of the economic activity, the legal form, the contact person or the complete termination of the business activity.

## Good to know

### Contact details of the business number service

**Postal address:** business number service 66088 Saarbrücken

**Service times:** Monday to Friday from 08.00 to 18.00

☎ 0800 4 5555 20 (The call is free of charge)

☎ 0681/988 429-1300

@ [betriebsnummernservice@arbeitsagentur.de](mailto:betriebsnummernservice@arbeitsagentur.de)

🔗 [arbeitsagentur.de/unternehmen/betriebsnummern-service](https://arbeitsagentur.de/unternehmen/betriebsnummern-service)

### Social security obligation of employees

#### Social insurance card or letter from the pension insurance institution with the employee's social insurance number

Employees are obliged to present their social security card to their employer at the start of employment. If the employee is unable to do so at the start of employment, he must do so without delay. Since January 2011, the social security card in its previous form has no longer been required. Instead, each employee receives only a letter from his pension insurance institution informing him of his social security number.

#### Reporting requirements

##### (a) Immediate registration requirement

Since 1 January 2009 there has been an immediate registration requirement for certain branches of the economy, i.e. in these branches the employer must additionally submit a registration directly to the data centre of the pension insurance (DSRV) at the latest when the employee takes up employment. Employers in the following sectors are affected by additional immediate registration:



- Construction
- Hotels and restaurants
- Passenger transport industry
- Forwarding, transport and related logistics industries
- Performing arts business
- Forestry companies
- Cleaning industry
- Businesses participating in the construction and dismantling of trade fairs and exhibitions
- Meat industry
- Sex work industry

Since 1 January 2009, employees in these sectors have been obliged to carry personal documents with them. The obligation to carry the social security card is no longer applicable. However, it must still be presented to the employer when taking up employment. The employer must inform each employee demonstrably and in writing of the obligation to carry the identity documents and must retain this notification for the duration of the provision of the services and present it upon inspection.

#### **b) Requirement to notify the health insurance provider**

Since 1 January 2006, notifications may only be generated from automatic payroll accounting programs or using approved form-filling aids. These regulations apply regardless of the size of the company. Data exchange is only permitted by remote data transfer.

If you use a payroll accounting program that is able to handle tax and social insurance issues, then it must be a payroll accounting program that has been system tested and approved by the "Informationstechnische Servicestelle der Gesetzlichen Krankenversicherung GmbH (ITSG)". An overview of approved programs can be found on the ITSG website at [gkv-ag.de](https://www.gkv-ag.de).

Form-filling aids are used exclusively for the automatic transmission of manually entered notifications and contribution statements. The filling aids must also be checked by the ITSG. The statutory health insurance funds provide the free form-filling aid sv.net.

Registration with the statutory health insurance provider also means registration with the nursing care insurance provider for statutory members. Employees who voluntarily insure themselves in the statutory health insurance scheme have the choice: either statutory or private nursing care insurance. Taking out private nursing care insurance means that they can be exempted from the statutory nursing insurance scheme. The employee must submit the membership

certificate of his health insurance company to the employer.

#### **c) Requirement to register with Minijob Centre**

Minijobs must be registered with the Minijob Centre (see above).

#### **d) Requirement to register with Employer's Liability Insurance Association**

In addition, the employer must register all employees with the employers' liability insurance association/accident insurance.

#### **e) Requirement to register at tax office**

The employee must register for income tax at the tax office in accordance with the employment relationship and the income tax revenue.

#### **f) Deadline for social security registration**

The following deadlines apply to the electronic registration and deregistration of employees:

- With the first invoice at the beginning or next invoice at the end of employment, but no later than six weeks after the beginning or end of employment. The employer must inform the person being registered of the contents of the registration.
- The same reporting deadlines apply to part-time employees. However, the notification must be made to the Minijob Centre [minijob-zentrale.de](https://www.minijob-zentrale.de).
- Immediate registration in certain branches of the economy (immediate registration requirement, see above) must be carried out electronically with the pension insurance data centre, at the latest when taking up employment.

#### **Social contributions**

The employer must deduct the employee's share of the social security contributions from the remuneration owed and transfer it to the social insurance institutions together with his employer's share. This includes statutory health, pension, long-term care and unemployment insurance. The contributions are due at the latest on the third last bank working day of the month in which the employment was performed. Since 1 January, 2009, the insolvency contribution has also been collected by the health insurance funds together with the total social insurance contributions. Accident insurance contributions are to be paid to the relevant employers' liability insurance association. The Minijob Centre (see above) provides information on the existing regulations for marginal and short-term employees.

## 5.2.3 Employment of foreign workers

Due to the free movement of workers within the EU, nationals of other EU states do not require a separate work permit. Employees from non-EU countries may only be employed if they have a valid residence permit allowing them to take up this employment.

### Residence title and work permit

The required residence permit is issued by the foreigners' registration office of the district offices and cities. In order to obtain it, the foreigner must submit a corresponding application to the representation of the Federal Republic of Germany in his country of residence before entering Germany. Entry with just a tourist visa is not sufficient, because the acceptance of an employment relationship is excluded with this type of visa.

Citizens of Australia, Israel, Japan, Canada, New Zealand, the Republic of Korea and the USA can apply for the relevant residence permit to take up employment even after their entry into the Federal Republic of Germany at the competent foreigners' registration office. The same applies to nationals of Switzerland. Citizens of the EFTA states Iceland, Liechtenstein, Norway and Switzerland enjoy freedom of movement within the Federal territory (Germany). They do not require a special residence permit for their stay in Germany and are permitted to pursue paid employment.

For all other non-EU nationals, the residence permit for the purpose of employment must be established before taking up employment. As a rule, the competent employment agency's approval must be obtained from the foreigners' registration office in an internal administrative procedure before such a residence permit can be issued. The approval of the employment agency becomes an additional provision of the residence permit. A separate work permit is not issued.

### Types of residence permits

The residence permit is issued as a separate document in the form of a credit card-style card with additional electronic functions (= electronic residence permit – eAT). The most common form is the residence permit, which is issued for a limited period of time and for a specific purpose, e.g. for a stay as a student or as part of a specific temporary employment relationship.

In addition to the residence permit, other residence titles are the settlement permit and the EU permanent residence permit, which are issued for an unlimited period and are not earmarked for a specific purpose. Non-EU nationals only receive these

residence permits if there are sufficient indications that the foreigner is integrated into life in Germany. The decisive factors here are, in particular, the duration of the foreigner's stay in the Federal Republic of Germany, the securing of his/her livelihood, knowledge of the German language and of the legal and social order in the Federal Republic of Germany.

Highly qualified persons have the possibility of obtaining the special residence permit „EU Blue Card“. In addition to the general admission requirements, three additional requirements must be met by the applicant:

- The applicant has a university degree. If the university degree was not obtained in Germany, the degree must either be recognised or be comparable to a German university degree.
- The applicant must have a signed or already existing employment contract or a concrete job offer and thus achieve at least one fixed gross annual salary.

### Short-term activities

There are a number of special regulations for short-term and seasonal employment. This applies, for example, to assembly work and activities in the catering trade. The competent foreigners' registration office will inform you of the conditions under which the residence permit is issued; the employment agencies will inform you about the work permit.

### Registration requirement for asylum seekers

It should also be noted that in the case of the employment of asylum seekers and tolerated persons, they require an official permit in order to be able to take up paid employment. Here too, employers must check whether the person concerned is fitted to take up employment on the basis of their residence permit before they employ that person.

Persons who receive benefits under the Asylum Seekers Benefits Act and take up self-employment or employment must report this to the competent authority no later than on the third day after taking up employment.

The employment agency provides information about the details in its leaflet „Arbeitsmarktzugang für Asylbewerber und Flüchtlinge“: free download at [arbeitsagentur.de/unternehmen/download-center-unternehmen](https://arbeitsagentur.de/unternehmen/download-center-unternehmen).

## Good to Know



The Federal Employment Agency offers the free information sheet „Employment of Foreign Employees in Germany“ on the employment opportunities of foreign employees and important employer questions and provides detailed information if required. ➔ [arbeitsagentur.de/unternehmen](https://arbeitsagentur.de/unternehmen)

The Chamber of Commerce and Industry also provides important information on the employment and self-employment of third-country nationals in Germany. For more information, see e.g. ➔ [ihk-muenchen.de/auslaenderrecht](https://ihk-muenchen.de/auslaenderrecht).

## 5.3 Data protection

Since 25 May 2018, uniform and stricter data protection rules have been in force throughout the European Union, and failure to comply with them could result in substantial fines. However, if properly implemented, data protection can bring significant marketing and competitive advantages both for companies already established on the market and for start-ups. For example, clients must carefully select their contractors. With increased information duties, customers and business partners are taking a closer look at how their data is processed. Those who set up their company in compliance with data protection from the outset have a better chance of establishing themselves on the market. But, as a person setting up a new business, where should you begin?

First of all, gain an overview of the personal data that is collected in your business. Ask yourself where, on what legal basis and how you process them, and to whom you transfer them. This is your basis for drawing up a list of processing activities.

This documentation facilitates the processing of data subjects' rights, data breakdowns and much more.

In particular, the following three legal bases play an important role in everyday business life:

- Contract or preliminary contract (e.g. for order processing)
- Consent (e.g. for newsletter registration)
- Legitimate interest (e.g. for direct mail advertising)

Check whether you have to conclude an order processing contract with your service provider if it processes personal data of your customers or employees for you in accordance with instructions. Also consider a process for dealing with data

breakdowns. It may be necessary to develop a rights concept. The operators of a website must also prepare a data protection declaration.

Those establishing a new business should therefore observe the data protection regulations from the outset. Then data protection law will not become a stumbling block, but a genuine marketing instrument.

## Good to Know



Ask your IHK about data protection! The Chamber of Commerce and Industry for Munich and Upper Bavaria, for example, offers a lot of information about the GDPR, a case study for small companies and a free webinar at ➔ [ihk-muenchen.de/datenschutz](https://ihk-muenchen.de/datenschutz)

# What other help does my IHK offer me?

## IHK business start-up seminars

Any step into self-employment must be carefully planned. The risks and opportunities of going into business must be weighed against each other by the entrepreneur. Your Chamber of Commerce and Industry (IHK) can support you in this decision-making process with business start-up seminars. The seminars deal with questions that have to be considered in connection with setting up a business. They provide information among other things about

- business plan preparation,
- investment, financial and liquidity planning,
- choice of legal form,
- tax questions and
- publicly funded financial assistance.

## Events for people starting a new business

Informing, learning, exchanging and networking: use the information events and business start-up events provided by your IHK to achieve the successful implementation of your business idea. Visit us, for example, at Bavaria's largest start-up fair, the IHK EXISTENZ in Munich, and find out how to set up a business successfully and safely. At numerous workshops and lectures, you will hear what has proven its worth and what has not, directly from consulting experts and people who have started their own business. Or you can get individual advice from our exhibitors. Information at [ihk-muenchen.de/existenz](https://ihk-muenchen.de/existenz)

## Further help to start

- Pre-foundation and succession coaching by the Bavarian Chambers of Commerce and Industry
- Facilitation of entrepreneurial know-how (from start-up). Here the IHK is the regional partner of BAFA.
- Further information on coaching programmes can be obtained from your IHK.
- Community initiative next-change [next-change.org](https://next-change.org)  
Business exchange at the IHK concerned

## Start-up agencies

Start-up agencies provide sound advice as well as the opportunity for registering the new business. Further information can be obtained from the IHK concerned.

## Single point of contact

In implementation of the Services Directive 2006/123/EC, the so-called single points of contact have also been established in Bavaria; the Chambers of Commerce and Industry or IHKs have assumed this task. Even independent towns and districts have the possibility to take on the task of the single point of contact in parallel to the chambers. The role of the single points of contact is to inform service providers about the procedures and formalities (e.g. licensing requirements, entries in registers, etc.) required for taking up and/or exercising a service activity within the meaning of the aforementioned directive and, if necessary, to support them in the necessary procedures or to handle these for the service provider as procedural intermediaries. The service portal of the Free State of Bavaria enables the electronic provision of information and the handling of procedures.

You can reach the single point of contact at the respective Bavarian Chambers of Commerce and Industry.

The service portal of the Free State of Bavaria can be found online at: [eap.bayern.de](https://eap.bayern.de)

# How to reach us: the Bavarian Chambers of Commerce and Industry

## IHK Aschaffenburg

Kerschensteinerstraße 9, 63741 Aschaffenburg

☎ 06021 880-0

☎ 06021 880-22 000

@ info@aschaffenburg.ihk.de

🌐 aschaffenburg.ihk.de

## IHK für Oberfranken Bayreuth

Bahnhofstraße 25, 95444 Bayreuth

☎ 0921 886-0

☎ 0921 886-9299

@ info@bayreuth.ihk.de

🌐 bayreuth.ihk.de

## IHK zu Coburg

Schloßplatz 5, 96450 Coburg

☎ 09561 7426-0

☎ 09561 7426-50

@ info@coburg.ihk.de

🌐 coburg.ihk.de

## IHK Regensburg für Oberpfalz / Kelheim

Dr.-Martin-Luther-Straße 12, 93047 Regensburg

☎ 0941 5694-0

☎ 0941 5694-279

@ info@regensburg.ihk.de

🌐 ihk-regensburg.de

## IHK für München und Oberbayern

Max-Joseph-Straße 2, 80333 München

☎ 089 5116-0

☎ 089 5116-1306

@ info@muenchen.ihk.de

🌐 ihk-muenchen.de

## IHK Schwaben

Stettenstraße 1+3, 86150 Augsburg

☎ 0821 3162-0

☎ 0821 3162-323

@ info@schwaben.ihk.de

🌐 schwaben.ihk.de

## IHK für Niederbayern in Passau

Nibelungenstraße 15, 94032 Passau

☎ 0851 507-0

☎ 0851 507-280

@ ihk@passau.ihk.de

🌐 ihk-niederbayern.de

## IHK Würzburg-Schweinfurt

Mainaustraße 33-35, 97082 Würzburg

☎ 0931 4194-0

☎ 0931 4194-100

@ info@wuerzburg.ihk.de

🌐 wuerzburg.ihk.de

## IHK Nürnberg für Mittelfranken

Ulmenstraße 52, 90403 Nürnberg

☎ 0911 1335-335

☎ 0911 1335-150335

@ kundenservice@nuernberg.ihk.de

🌐 nuernberg.ihk.de

# Appendix

## Income thresholds for social security contributions

THRESHOLD VALUES WEST GERMANY 2019		THRESHOLD VALUES EAST GERMANY 2019	
Income thresholds		Income thresholds	
<b>Pension/unemployment insurance</b>		<b>Pension/unemployment insurance</b>	
Year	80,400.00 €	Year	73,800.00 €
Month	6,700.00 €	Month	6,150.00 €
Annual income limit for <b>health/nursing care insurance</b>		Annual income limit for <b>health/nursing care insurance</b>	
Year (1*)	60,750.00 €	Year (1*)	60,750.00 €
Monthly average	5,062.50 €	Monthly average	5,062.50 €
Year (2*)	54,450.00 €	Year (2*)	54,450.00 €
Monthly average	4,537.50 €	Monthly average	4,537.50 €
Marginal limit Month	450 €	Marginal limit Month	450 €
Pension insurance contribution	18.60 %	Pension insurance contribution	18.60 %
Unemployment insurance contribution	2.50 %	Unemployment insurance contribution	2.50 %
Health insurance contribution of the statutory health insurance		Health insurance contribution of the statutory health insurance	
general	14.60 %	general	14.60 %
reduced	14.00 %	reduced	14.00 %
Nursing care insurance	3.05 %	Nursing care insurance	3.05 %
Nursing care insurance for childless members aged 23 and over	3.30 %	Nursing care insurance for childless members aged 23 and over	3.30 %
Individual additional contribution to the health insurance fund	depending on health insurance company	Individual additional contribution to the health insurance fund	depending on health insurance company

(1\*) If the annual income exceeds the above amount, an employee may choose between voluntary continued insurance in the statutory sickness insurance fund and insurance in a private sickness insurance fund if the annual income of the last calendar year has also exceeded the respective limit amount.

(2\*) This annual income limit is the basis for calculating the respective statutory health insurance contributions.





## Sample form "Business registration"

Name der entgegennehmenden Gemeinde		Gemeindekennzahl Betriebsstätte (Sitz)		GewA 1	
<b>Gewerbe-Anmeldung</b>		<b>Bitte vollständig und gut lesbar ausfüllen sowie die zutreffenden Kästchen ankreuzen</b>			
nach § 14 GewO oder § 55 c GewO					

**Angaben zum Betriebsinhaber** Bei Personengesellschaften (z.B. OHG) ist für jeden geschäftsführenden Gesellschafter ein eigener Vordruck auszufüllen. Bei juristischen Personen ist bei Feld Nr. 3 bis 9 und Feld Nr. 30 und 31 der gesetzliche Vertreter anzugeben (bei inländischer AG wird auf diese Angaben verzichtet). Die Angaben für weitere gesetzliche Vertreter zu diesen Nummern sind ggf. auf Beiblättern zu ergänzen.

1 Im Handels-, Genossenschafts- oder Vereinsregister eingetragener Name mit <b>Rechtsform</b> (ggf. bei GbR: Angabe der weiteren Gesellschafter)	2 Ort und Nr. des Registerintrages
--	------------------------------------

<b>Angaben zur Person</b>		
3 Name	4 Vornamen	4a Geschlecht männl. <input type="checkbox"/> weibl. <input type="checkbox"/>
5 Geburtsname (nur bei Abweichung vom Namen)		
6 Geburtsdatum	7 Geburtsort und – land	
8 Staatsangehörigkeit (en)      deutsch <input type="checkbox"/> andere:		
9 Anschrift der Wohnung (Straße, Haus-Nr., PLZ, Ort; freiwillig: e-mail/web)		Telefon-Nr.
		Telefax-Nr.

<b>Angaben zum Betrieb</b>	10 Zahl der geschäftsführenden Gesellschafter (nur bei Personengesellschaften) Zahl der gesetzlichen Vertreter (nur bei juristischen Personen)	
11 Vertretungsberechtigte Person/Betriebsleiter (nur bei inländischen Aktiengesellschaften, Zweigniederlassungen und unselbständigen Zweigstellen)		
Name	Vornamen	

**Anschriften (Straße, Haus-Nr., PLZ, Ort)**

12 Betriebsstätte	Telefon-Nr.
	Telefax-Nr.
	freiwillig: e-mail/web
13 Hauptniederlassung (falls Betriebsstätte lediglich Zweigstelle ist)	Telefon-Nr.
	Telefax-Nr.
	freiwillig: e-mail/web
14 Frühere Betriebsstätte	Telefon-Nr.
	Telefax-Nr.

15 Angemeldete Tätigkeit - ggf. ein Beiblatt verwenden (genau angeben: z. B. Herstellung von Möbeln, Elektroinstallationen und Elektro Einzelhandel, Großhandel mit Lebensmitteln usw.; bei mehreren Tätigkeiten bitte Schwerpunkt unterstreichen)

16 Wird die Tätigkeit (vorerst) im Nebenerwerb betrieben ? Ja <input type="checkbox"/> Nein <input type="checkbox"/>	17 Datum des Beginns der angemeldeten Tätigkeit
---	---

18 Art des angemeldeten Betriebes Industrie <input type="checkbox"/> Handwerk <input type="checkbox"/> Handel <input type="checkbox"/> Sonstiges <input type="checkbox"/>	
--	--

19 Zahl der bei Geschäftsaufnahme tätigen Personen (ohne Inhaber)	Vollzeit <input type="checkbox"/>	Teilzeit <input type="checkbox"/>	Keine <input type="checkbox"/>
---	-----------------------------------	-----------------------------------	--------------------------------

<b>Die Anmeldung wird erstattet für</b>	20 Eine Hauptniederlassung <input type="checkbox"/>	eine Zweigniederlassung <input type="checkbox"/>	eine unselbständige Zweigstelle <input type="checkbox"/>	
	21 ein Automatenaufstellungsgewerbe <input type="checkbox"/>	22 ein Reisegewerbe <input type="checkbox"/>		

<b>Grund</b>	23 <b>Neuerrichtung/Übernahme</b>	Neugründung <input type="checkbox"/>	Wiedereröffnung nach Verlegung aus einem anderen Meldebezirk <input type="checkbox"/>	Gründung nach Umwandlungsgesetz (z.B. Verschmelzung, Spaltung) <input type="checkbox"/>
	Wechsel der Rechtsform <input type="checkbox"/>	Gesellschaftereintritt <input type="checkbox"/>	Erbfolge/Kauf/Pacht <input type="checkbox"/>	

26 Name des früheren Gewerbetreibenden oder früherer Firmenname

**Falls der Betriebsinhaber für die angemeldete Tätigkeit eine Erlaubnis benötigt, in die Handwerksrolle einzutragen oder Ausländer ist:**

28 Liegt eine Erlaubnis vor? Ja <input type="checkbox"/> Nein <input type="checkbox"/>	Wenn Ja, Ausstellungsdatum und erteilende Behörde:
29 <b>Nur für Handwerksbetriebe</b> Liegt eine Handwerkskarte vor? Ja <input type="checkbox"/> Nein <input type="checkbox"/>	Wenn Ja, Ausstellungsdatum und Name der Handwerkskammer:
30 Liegt eine Aufenthaltsgenehmigung vor? Ja <input type="checkbox"/> Nein <input type="checkbox"/>	Wenn Ja, Ausstellungsdatum und erteilende Behörde:
31 Enthält die Aufenthaltsgenehmigung eine Auflage oder Beschränkung? Ja <input type="checkbox"/> Nein <input type="checkbox"/>	Wenn Ja, sie enthält folgende Auflagen bzw. Beschränkungen:

**Hinweis:** Diese Anzeige berechtigt nicht zum Beginn des Gewerbebetriebes, wenn noch eine Erlaubnis oder eine Eintragung in die Handwerksrolle notwendig ist. Zuwiderhandlungen können mit Geldbuße oder Geldstrafe oder Freiheitsstrafe geahndet werden. Diese Anzeige ist keine Genehmigung zur Errichtung einer Betriebsstätte entsprechend dem Planungs- und Baurecht.

32	33	
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(Datum) (Unterschrift)

## Sample form „Questionnaire for tax registration“

An das Finanzamt		Eingangsstempel oder -datum	
1			
2	Steuernummer		
<b>Fragebogen zur steuerlichen Erfassung</b>			
3	<b>Aufnahme einer gewerblichen, selbständigen (freiberuflichen) oder land- und forstwirtschaftlichen Tätigkeit</b>		
4	<b>Beteiligung an einer Personengesellschaft/-gemeinschaft</b> – Bitte beantworten Sie nur die Fragen zu Abschnitt 1, Abschnitt 2 – nur Textziffer 2.6, Abschnitt 3 und Abschnitt 8 –		
<b>1. Allgemeine Angaben</b>			
<b>1.1 Steuerpflichtige(r)/Beteiligte(r)</b>			
5	Name	Vorname	
6	ggf. Geburtsname		
7	Ausgeübter Beruf	Geburtsdatum	
8	Straße		
9	Hausnummer	Hausnummerzusatz	Adressergänzung
10	Postleitzahl	Wohnort	
11	Postleitzahl	Ort (Postfach)	Postfach
12	Identifikationsnummer	<b>Religionsschlüssel:</b> Evangelisch = EV Römisch-Katholisch = RK nicht kirchensteuerpflichtig = VD weitere siehe Ausfüllhilfe Religion	
<b>Stand der Ehe/eingetragenen Lebenspartnerschaft (Datum = TT.MM.JJJJ)</b>			
13	Verheiratet/Eingetragene seit dem	Verwitwet seit dem	Geschieden/Aufgehoben seit dem
Dauernd getrennt lebend seit dem			
<b>1.2 Ehegatte/Ehegattin/eingetragene(r) Lebenspartner(in)</b>			
14	Name	Vorname	
15	ggf. Geburtsname		
16	Ausgeübter Beruf	Geburtsdatum	
17	Falls von den Zeilen 8 und 10 abweichend: Straße		
18	Hausnummer	Hausnummerzusatz	Adressergänzung
19	Postleitzahl	Wohnort	
20	Identifikationsnummer	<b>Religionsschlüssel:</b> Evangelisch = EV Römisch-Katholisch = RK nicht kirchensteuerpflichtig = VD Religion	
<b>1.3 Kommunikationsverbindungen</b>			
21	Telefon:	Rufnummer	
22	Vorwahl international	Vorwahl national	Rufnummer
23	E-Mail		
24	Internetadresse		
<b>1.4 Art der Tätigkeit (genaue Bezeichnung des Gewerbebezweiges)</b>			
25			
26			

Steuernummer

1.5 Bankverbindung(en) für Steuererstattungen/SEPA-Lastschriftverfahren

Alle Steuererstattungen sollen an folgende Bankverbindung erfolgen:

IBAN (inländisches Geldinstitut)

27

DE

IBAN (ausländisches Geldinstitut)

28

BIC zu Zeile 28

29

Kontoinhaber(in)

30

It. Zeile 5

It. Zeile 14 oder:

ggf. abweichende(r) Kontoinhaber(in)

Personensteuererstattungen

(z. B. Einkommensteuer) sollen an folgende Bankverbindung erfolgen:

IBAN (inländisches Geldinstitut)

31

DE

IBAN (ausländisches Geldinstitut)

32

BIC zu Zeile 32

33

Kontoinhaber(in)

34

It. Zeile 5

It. Zeile 14 oder:

ggf. abweichende(r) Kontoinhaber(in)

Betriebssteuererstattungen

(z. B. Umsatz-, Lohnsteuer) sollen an folgende Bankverbindung erfolgen:

IBAN (inländisches Geldinstitut)

35

DE

IBAN (ausländisches Geldinstitut)

36

BIC zu Zeile 26

37

Kontoinhaber(in)

38

It. Zeile 5

It. Zeile 14 oder:

ggf. abweichende(r) Kontoinhaber(in)

Möchten Sie am SEPA-Lastschriftverfahren, dem für beide Seiten einfachsten Zahlungsweg, teilnehmen?

39

Ja. Das ausgefüllte SEPA-Lastschriftmandat ist beigelegt.

1.6 Steuerliche Beratung

Nein

Ja

Firma

41

oder

Name

42

Vorname

Straße

43

Hausnummer

44

Hausnummerzusatz

Adressergänzung

Postleitzahl

45

Ort

Postleitzahl

46

Ort (Postfach)

Postfach

Kommunikationsverbindungen

Telefon:

Vorwahl international

47

Vorwahl national

Rufnummer

E-Mail

48

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49	<b>Steuernummer</b> <input type="text"/>		
<b>1.7 Empfangsbevollmächtigte(r) für alle Steuerarten</b>			
Die unter Tz. 1.6 angegebene steuerliche Beratung ist empfangsbevollmächtigt.			
50	<b>oder</b>		
	Firma <input type="text"/>		
51	<b>oder</b>		
	Name <input type="text"/>	Vorname <input type="text"/>	
52	Straße <input type="text"/>		
53	Hausnummer <input type="text"/>	Hausnummerzusatz <input type="text"/>	Adressergänzung <input type="text"/>
54	Postleitzahl <input type="text"/>	Ort <input type="text"/>	
55	Postleitzahl <input type="text"/>	Ort (Postfach) <input type="text"/>	Postfach <input type="text"/>
<b>Kommunikationsverbindungen</b>			
56	Telefon: Vorwahl international <input type="text"/> Vorwahl national <input type="text"/> Rufnummer <input type="text"/>		
57	E-Mail <input type="text"/>		
58	Die gesonderte <b>Vollmacht</b> ist beigelegt.		
59	Die Anzeige der <b>Vollmacht</b> folgt über die Vollmachtsdatenbank (K-VDB).		
60	<b>1.8 Bisherige persönliche Verhältnisse</b> <span style="float: right;">Zugezogen am (TT.MM.JJJJ) <input type="text"/></span>		
	Falls Sie innerhalb der letzten 12 Monate zugezogen sind:		
61	Straße <input type="text"/>		
62	Hausnummer <input type="text"/>	Hausnummerzusatz <input type="text"/>	Adressergänzung <input type="text"/>
63	Postleitzahl <input type="text"/>	Wohnort <input type="text"/>	
64	Postleitzahl <input type="text"/>	Ort (Postfach) <input type="text"/>	Postfach <input type="text"/>
Waren Sie (oder ggf. Ihr(e) Ehegatte/Ehegattin/eingetragene(r) Lebenspartner(in)) in den letzten drei Jahren für Zwecke der Einkommensteuer steuerlich erfasst?			
65	Nein <input type="checkbox"/> Ja <input type="checkbox"/> <span style="float: right;">Finanzamt <input type="text"/></span>		
66	<span style="float: right;">Steuernummer <input type="text"/></span>		
<b>2. Angaben zur gewerblichen, selbständigen (freiberuflichen) oder land- und forstwirtschaftlichen Tätigkeit</b>			
<b>2.1 Anschrift des Unternehmens</b>			
67	Bezeichnung <input type="text"/>		
68	Straße <input type="text"/>		
69	Hausnummer <input type="text"/>	Hausnummerzusatz <input type="text"/>	Adressergänzung <input type="text"/>
70	Postleitzahl <input type="text"/>	Ort <input type="text"/>	
71	Postleitzahl <input type="text"/>	Ort (Postfach) <input type="text"/>	Postfach <input type="text"/>
ggf. abweichender Ort der Geschäftsleitung			
72	Straße <input type="text"/>		
73	Hausnummer <input type="text"/>	Hausnummerzusatz <input type="text"/>	Adressergänzung <input type="text"/>
74	Postleitzahl <input type="text"/>	Ort <input type="text"/>	
<b>Kommunikationsverbindungen</b>			
75	Telefon: Vorwahl international <input type="text"/> Vorwahl national <input type="text"/> Rufnummer <input type="text"/>		
76	E-Mail <input type="text"/>		
77	Internetadresse <input type="text"/>		

	<b>Steuernummer</b> <input type="text"/>		
78	<b>2.2 Beginn der Tätigkeit</b> (inklusive Vorbereitungshandlungen) <input type="text"/> (TT.MM.JJJJ)		
	<b>2.3 Betriebsstätten</b>		
79	Werden in mehreren Gemeinden Betriebsstätten unterhalten? <input type="checkbox"/> Ja <input type="checkbox"/> Nein		
80	lfd. Nr. <b>Ja</b> <b>001</b>	Bezeichnung <input type="text"/>	
81		Anschrift, Straße <input type="text"/>	
82		Hausnummer <input type="text"/>	Hausnummerzusatz <input type="text"/> Adressergänzung <input type="text"/>
83		Postleitzahl <input type="text"/>	Ort <input type="text"/>
84		Telefon: Vorwahl international <input type="text"/>	Vorwahl national <input type="text"/> Rufnummer <input type="text"/>
85	lfd. Nr. <b>002</b>	Bezeichnung <input type="text"/>	
86		Anschrift, Straße <input type="text"/>	
87		Hausnummer <input type="text"/>	Hausnummerzusatz <input type="text"/> Adressergänzung <input type="text"/>
88		Postleitzahl <input type="text"/>	Ort <input type="text"/>
89		Telefon: Vorwahl international <input type="text"/>	Vorwahl national <input type="text"/> Rufnummer <input type="text"/>
90	Bei mehr als zwei Betriebsstätten: <input type="checkbox"/> Gesonderte Aufstellung ist beigelegt.		
	<b>2.4 Handelsregistereintragung</b>		
91	<input type="checkbox"/> Ja, seit <input type="text"/>	<input type="checkbox"/> Nein	<input type="checkbox"/> Eine Eintragung ist beabsichtigt.
92			<input type="checkbox"/> Antrag beim Handelsregister gestellt
93	beim Amtsgericht	am <input type="text"/>	(TT.MM.JJJJ)
94	Ort <input type="text"/>		
95	Registernummer <input type="text"/>		
	<b>2.5 Gründungsform</b> (Bitte ggf. die entsprechenden Verträge beifügen!) (Datum = TT.MM.JJJJ)		
96	<input type="checkbox"/> Neugründung zum <input type="text"/>	<input type="checkbox"/> Verlegung zum <input type="text"/>	
97	<input type="checkbox"/> Übernahme (z. B. Kauf, Pacht, Vererbung, Schenkung) zum <input type="text"/>	<input type="checkbox"/> Verschmelzung zur Neugründung oder sonstiger Gründungsvorgang zum <input type="text"/>	
98	Vorheriges Unternehmen: Firma <input type="text"/>		
99	oder Name <input type="text"/> Vorname <input type="text"/>		
100	Straße <input type="text"/>		
101	Hausnummer <input type="text"/>	Hausnummerzusatz <input type="text"/>	Adressergänzung <input type="text"/>
102	Postleitzahl <input type="text"/>	Ort <input type="text"/>	
103	Finanzamt <input type="text"/>	Steuernummer <input type="text"/>	
104	ggf. Umsatzsteuer-Identifikationsnummer <input type="text"/>		



**Steuernummer**

**2.6 Bisherige betriebliche Verhältnisse**  
Ist in den letzten fünf Jahren schon ein Gewerbe, eine selbständige (freiberufliche) oder eine land- und forstwirtschaftliche Tätigkeit ausgeübt worden oder waren Sie an einer Personengesellschaft oder zu mindestens 1 % an einer Kapitalgesellschaft beteiligt?

105 ☐ Nein ☐ Ja  Art der Tätigkeit/Beteiligung

106  Ort

107 Dauer vom  bis  (TT.MM.JJJJ)

108 Finanzamt  Steuernummer

109 ggf. Umsatzsteuer-Identifikationsnummer

**3. Angaben zur Festsetzung der Vorauszahlungen (Einkommensteuer, Gewerbesteuer)**

	im Jahr der Betriebseröffnung		im Folgejahr	
	Steuerpflichtige(r) EUR	Ehegatte(in)/Lebenspartner(in) EUR	Steuerpflichtige(r) EUR	Ehegatte(in)/Lebenspartner(in) EUR
110 Land- und Forstwirtschaft				
111 Gewerbebetrieb				
112 Selbständiger Arbeit				
113 Nichtselbständiger Arbeit				
114 Kapitalvermögen				
115 Vermietung und Verpachtung				
116 Sonstigen Einkünften (z. B. Renten)				
<b>3.2 Voraussichtliche Höhe der</b>				
117 Sonderausgaben				
118 Steuerabzugsbeträge				

**4. Angaben zur Gewinnermittlung**

119 Gewinnermittlungsart ☐ Einnahmenüberschussrechnung

120 ☐ Vermögensvergleich (Bilanz) **Hinweis:** Die Eröffnungsbilanz ist gemäß § 5b Abs. 1 Satz 5 EStG nach amtlich vorgeschriebenen Datensatz durch Datenfernübertragung zu übermitteln.

121 ☐ Gewinnermittlung nach Durchschnittssätzen (nur bei Land- und Forstwirtschaft)

122 ☐ Sonstige (z. B. § 5a EStG)

Liegt ein vom Kalenderjahr abweichendes Wirtschaftsjahr vor?

123 ☐ Nein ☐ Ja, Beginn  (TT.MM.JJJJ)

**5. Freistellungsbescheinigung gemäß § 48b Einkommensteuergesetz (EStG) („Bauabzugsteuer“)**

Das Merkblatt zum Steuerabzug bei Bauleistungen steht Ihnen im Internet unter [www.bzst.de](http://www.bzst.de) zum Download zur Verfügung. Sie können es aber auch bei Ihrem Finanzamt erhalten.

124 ☐ Ich beantrage die Erteilung einer Bescheinigung zur Freistellung vom Steuerabzug bei Bauleistungen gemäß § 48b EStG.

**6. Angaben zur Anmeldung und Abführung der Lohnsteuer**

125 Zahl der Arbeitnehmer (einschließlich Aushilfskräfte) Insgesamt  a) davon Familienangehörige  b) davon geringfügig Beschäftigte

126 Beginn der Lohnzahlungen  (TT.MM.JJJJ)

127 Anmeldezeitraum (voraussichtliche Lohnsteuer im Kalenderjahr) ☐ monatlich (mehr als 5.000 EUR) ☐ vierteljährlich (mehr als 1.080 EUR) ☐ jährlich (nicht mehr als 1.080 EUR)

128	<b>Steuernummer</b> <input type="text"/>		
Die für die Lohnberechnung maßgebenden Lohnbestandteile werden zusammengefasst im Betrieb/Betriebsteil:			
129	Bezeichnung <input type="text"/>		
130	Straße <input type="text"/>		
131	Hausnummer <input type="text"/>	Hausnummerzusatz <input type="text"/>	Adressergänzung <input type="text"/>
	Postleitzahl <input type="text"/>	Ort <input type="text"/>	
<b>7. Angaben zur Anmeldung und Abführung der Umsatzsteuer</b>			
132	<b>7.1 Summe der Umsätze</b> (geschätzt) im Jahr der Betriebseröffnung <input type="text"/> EUR im Folgejahr <input type="text"/> EUR		
133	<b>7.2 Geschäftsveräußerung im Ganzen (§ 1 Abs. 1a Umsatzsteuergesetz (UStG))</b> Es wurde ein Unternehmen oder ein in der Gliederung eines Unternehmens gesondert geführter Betrieb erworben: <input type="checkbox"/> Nein <input type="checkbox"/> Ja (siehe Eintragungen zu Tz. 2.5 Übernahme)		
134	<b>7.3 Kleinunternehmer-Regelung</b> <input type="checkbox"/> Der auf das Kalenderjahr hochgerechnete Gesamtumsatz wird die Grenze von 17.500 EUR voraussichtlich nicht überschreiten. Es wird die Kleinunternehmer-Regelung (§ 19 Abs. 1 UStG) in Anspruch genommen. In Rechnungen wird keine Umsatzsteuer gesondert ausgewiesen und es kann kein Vorsteuerabzug geltend gemacht werden. <b>Hinweis:</b> Angaben zu Tz. 7.8 sind nicht erforderlich; Umsatzsteuer-Voranmeldungen sind grundsätzlich nicht zu übermitteln.		
135	<input type="checkbox"/> Der auf das Kalenderjahr hochgerechnete Gesamtumsatz wird die Grenze von 17.500 EUR voraussichtlich nicht überschreiten. Es wird auf die Anwendung der Kleinunternehmer-Regelung verzichtet. Die Besteuerung erfolgt nach den allgemeinen Vorschriften des Umsatzsteuergesetzes <b>für mindestens fünf Kalenderjahre</b> (§ 19 Abs. 2 UStG); Umsatzsteuer-Voranmeldungen sind monatlich in elektronischer Form authentifiziert zu übermitteln.		
136	<b>7.4 Organschaft (§ 2 Abs. 2 Nr. 2 UStG)</b> <input type="checkbox"/> Ich bin Organträger folgender Organgesellschaft:		
137	Firma <input type="text"/>		
138	Straße <input type="text"/>		
139	Hausnummer <input type="text"/>	Hausnummerzusatz <input type="text"/>	Adressergänzung <input type="text"/>
140	Postleitzahl <input type="text"/>	Ort <input type="text"/>	
141	Postleitzahl <input type="text"/>	Ort (Postfach) <input type="text"/>	Postfach <input type="text"/>
142	Rechtsform <input type="text"/>		
143	Beteiligungsverhältnis (Bruchteil) <input type="text"/> / <input type="text"/>		
144	Finanzamt <input type="text"/>	Steuernummer <input type="text"/>	
145	ggf. Umsatzsteuer-Identifikationsnummer <input type="text"/>		
<b>Hinweis:</b> Weitere organschaftliche Verbindungen bitte in einer Anlage (formlos) mitteilen.			
146	<b>7.5 Steuerbefreiung</b> Es werden ganz oder teilweise steuerfreie Umsätze gem. § 4 UStG ausgeführt: <input type="checkbox"/> Nein <input type="checkbox"/> Ja Art des Umsatzes/der Tätigkeit <input type="text"/> (§4Nr. <input type="text"/> UStG)		
147	<b>7.6 Steuersatz</b> Es werden Umsätze ausgeführt, die ganz oder teilweise dem ermäßigten Steuersatz gem. § 12 Abs. 2 UStG unterliegen: <input type="checkbox"/> Nein <input type="checkbox"/> Ja Art des Umsatzes/der Tätigkeit <input type="text"/> (§ 12 Abs. 2 Nr. <input type="text"/> UStG)		
148	<b>7.7 Durchschnittssatzbesteuerung</b> Es werden ganz oder teilweise Umsätze ausgeführt, die der Durchschnittssatzbesteuerung gem. § 24 UStG unterliegen: <input type="checkbox"/> Nein <input type="checkbox"/> Ja Art des Umsatzes/der Tätigkeit <input type="text"/> (§ 24 Abs. 1 Nr. <input type="text"/> UStG)		

	<b>Steuernummer</b> <input style="width: 100%;" type="text"/>
<b>7.8 Soll-/Istversteuerung der Entgelte</b>	
149	Ich berechne die Umsatzsteuer nach <input style="width: 30px;" type="checkbox"/> vereinbarten Entgelten ( <b>Sollversteuerung</b> ).
150	<input style="width: 30px;" type="checkbox"/> vereinnahten Entgelten. Ich beantrage hiermit die <b>Istversteuerung</b> , weil
151	<input style="width: 30px;" type="checkbox"/> der auf das Kalenderjahr hochgerechnete Gesamtumsatz für das Gründungsjahr voraussichtlich nicht mehr als 500.000 EUR betragen wird.
152	<input style="width: 30px;" type="checkbox"/> ich von der Verpflichtung, Bücher zu führen und auf Grund jährlicher Bestandsaufnahmen regelmäßig Abschlüsse zu machen, nach § 148 Abgabenordnung (AO) befreit bin.
153	<input style="width: 30px;" type="checkbox"/> ich Umsätze ausführe, für die ich als Angehöriger eines freien Berufs im Sinne von § 18 Abs. 1 Nr. 1 des Einkommensteuergesetzes weder buchführungspflichtig bin noch freiwillig Bücher führe.
<b>7.9 Umsatzsteuer-Identifikationsnummer</b>	
154	Ich <b>benötige</b> für die Teilnahme am innergemeinschaftlichen Waren- und Dienstleistungsverkehr eine Umsatzsteuer-Identifikationsnummer (USt-IdNr.).
<b>Hinweis:</b> Bei Vorliegen einer Organshaft ist die USt-IdNr. der Organgesellschaft vom Organträger zu beantragen.	
155	Ich <b>habe bereits</b> für eine frühere Tätigkeit folgende USt-IdNr. erhalten:
156	USt-IdNr. <input style="width: 150px;" type="text"/> Vergabedatum: <input style="width: 100px;" type="text"/> (TT.MM.JJJJ)
<b>7.10 Steuerschuldnerschaft des Leistungsempfängers bei Bau- und/oder Gebäudereinigungsleistungen</b>	
157	Es wird die Erteilung eines Nachweises zur Steuerschuldnerschaft des Leistungsempfängers bei Bau- und/oder Gebäudereinigungsleistungen (Vordruck USt 1 TG) beantragt.
158	<input style="width: 30px;" type="checkbox"/> Der Umfang der ausgeführten <b>Bauleistungen</b> i. S. des § 13b Abs. 2 Nr. 4 UStG beträgt voraussichtlich mehr als 10 % des Weltumsatzes (Summe der im Inland steuerbaren und nicht steuerbaren Umsätze).
159	<input style="width: 30px;" type="checkbox"/> Der Umfang der ausgeführten <b>Gebäudereinigungsleistungen</b> i. S. des § 13b Abs. 2 Nr. 8 UStG beträgt voraussichtlich mehr als 10 % des Weltumsatzes (Summe der im Inland steuerbaren und nicht steuerbaren Umsätze).
<b>Hinweis:</b> Die Voraussetzungen zur Erteilung der Bescheinigung sind in geeigneter Weise in einer Anlage glaubhaft zu machen.	
<b>7.11 Besonderes Besteuerungsverfahren „Mini-one-stop-shop“</b>	
Nur bei Ausführung von Telekommunikationsleistungen, Rundfunk- und Fernsehdienstleistungen oder auf elektronischem Weg erbrachten sonstigen Leistungen durch einen in einem anderen EU-Mitgliedstaat ansässigen Unternehmer an einen im Inland ansässigen Nichtunternehmer:	
160	Ich nehme das besondere Besteuerungsverfahren („Mini-one-stop-shop“) in Anspruch. Die entsprechenden Umsätze erkläre ich über die zuständige Behörde in meinem Ansässigkeitsstaat.
<b>8. Angaben zur Beteiligung an einer Personengesellschaft/-gemeinschaft</b>	
Bezeichnung der Gesellschaft / Gemeinschaft <input style="width: 100%;" type="text"/>	
161	Straße <input style="width: 100%;" type="text"/>
162	Hausnummer <input style="width: 50px;" type="text"/> Hausnummerzusatz <input style="width: 50px;" type="text"/> Adressergänzung <input style="width: 100px;" type="text"/>
163	Postleitzahl <input style="width: 50px;" type="text"/> Ort <input style="width: 100px;" type="text"/>
164	Postleitzahl <input style="width: 50px;" type="text"/> Ort (Postfach) <input style="width: 100px;" type="text"/> Postfach <input style="width: 50px;" type="text"/>
165	Finanzamt <input style="width: 100px;" type="text"/> Steuernummer <input style="width: 100px;" type="text"/>
166	(Fügen Sie bitte eine Kopie des Gesellschaftsvertrags bei!)
<b>Hinweis:</b> Die mit diesem Fragebogen angeforderten Daten werden aufgrund der §§ 85, 88, 90, 93 und 97 AO erhoben.	
<div style="border: 1px solid black; height: 40px; width: 100%;"></div>	
167	<div style="display: flex; justify-content: space-between;"> <div style="width: 40%;">         Ort, Datum <input style="width: 100%;" type="text"/> </div> <div style="width: 60%;">         Unterschrift des/der Steuerpflichtigen und ggf. des Ehegatten/der Ehegattin bzw. des/der eingetragenen Lebenspartners/Lebenspartnerin bzw. des/der Vertreter(s) oder Bevollmächtigten <input style="width: 100%;" type="text"/> </div> </div>

Steuernummer

168

Anlagen:

Teilnahmeerklärung für das SEPA-Lastschriftverfahren (Tz. 1.5)

169

Empfangsvollmacht (Tz. 1.7)

170

Aufstellung über Betriebsstätten (Tz. 2.3)

171

Verträge bei Übernahme bzw. Umwandlung (Tz. 2.5)

172

Weitere organschaftliche Verbindungen (Tz. 7.4)

173

Gesellschaftsvertrag (Tz. 8)

174

Finanzamt




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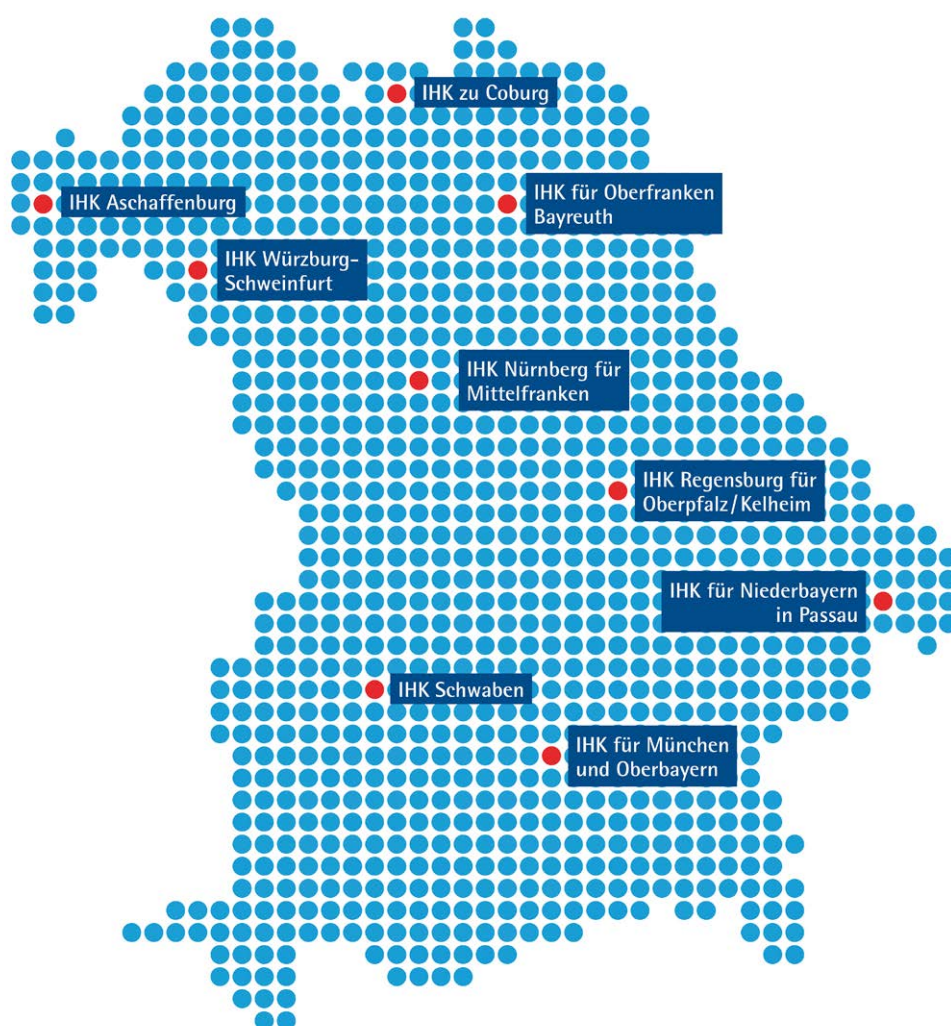
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Industrie- und Handelskammern  
in Bayern



The Bavarian Chamber of Industry and Commerce (BIHK) is the umbrella organisation of the nine IHKs in Bavaria. All Bavarian companies - with the exception of craft enterprises, liberal professions and agricultural enterprises - are members of an IHK by law. Consequently, the BIHK speaks for around 990,000 companies of all sizes and sectors: from globally operating corporations to owner-managed medium-sized companies. The BIHK is not dependent on any particular group of entrepreneurs, but represents the overall interests of the Bavarian commercial sector. Since its foundation in 1909, it has been the largest business organisation in the Free State of Bavaria.