

# **The Fiscal Reform of Land Tax in Germany: Still a Report for the Time Being? Same Old, Same Old...**

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## **SUMMARY**

The fiscal reform of land tax in Germany: A report for the time being?

For taxation of land and property three different types of tax exist in Germany. The first of these taxes applies to transfer of property (inheritance, donation, sale). The second tax targets returns within the legal framework of income based taxation. The third tax is a substantial tax based on the assessed valuation for the land tax. In many countries of the world the land tax is one of the most important direct taxes and thus one of the most significant sources of revenue for the public sector.

In Germany the fundamental aspects of the land tax were established by the Prussian tax abatement in 1861. Nowadays the land tax as a real tax – itself based on the legal framework of the land tax act of 1949 - is based on the assessed values of 1964 in the federal states of former Western Germany and on the assessed values of 1935 in the federal states that once constituted the GDR. Being a communal tax and amounting to about 13 billion € a year (that is 20% of the total tax revenue) it significantly contributes to the stabilization of communal finances.

However, the assessed values as a basis for land tax collection by no means match today's values anymore. Even adjusting by means of local and communal rates of assessment does not result in a just and accountable collection of this tax.

In 2014 the highest financial court in Germany has called for a reform of the land tax act in multiple resolutions which were then presented to the Federal Constitutional Court for review. The Federal states will now have to agree on a shared model for legislation partly because in doing so they will be able to preempt any resolution by the Federal Constitutional Court. In General any decisions by the

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e Federal Constitutional Court have to be implemented within three years time which – considering the complexity of this domain – seems virtually impossible.

On September 23th, 2016 and after extensive and longstanding discussion the federal states of Germany have now submitted a model to the Federal Council which is supported by 14 of the federal states. Only the federal states of Bavaria and Hamburg oppose this model. The former assessed value is to be transformed to a cost value. As a result it comprises the costs of acquisition of property as well as the costs of construction. To counter the difficulties arising from using a mass appraisal method a simplified and classified asset value method is planned to be implemented. For developed sites this method will be based on the standard land values of the committee of valuation experts as well as on the data of the cadastral office and on the characteristic values of the standard building costs in 2010. For undeveloped sites the standard land value will be the determining factor.

Since the tax load for the whole of Germany is not to be raised the fiscal authorities have to calculate tax assessment factors which will then be completed by local rates of assessment.

The current proposal by the Finance Ministers of aforementioned 14 federal states is scheduled to be implemented with the revaluations of property assets starting in 2022. By 2025 the revaluations are expected to be finalized.

The federal states of Bavaria and Hamburg on the other hand still operate by only calculating the out- and indoor space of property with a local rate of assessment and no element of value.

As time presses both proposals are currently being discussed intensively by organizations and political authorities alike.