

Section 138 – Reporting gainful occupation¹

(1) Whoever opens an agricultural and forestry undertaking, a commercial operation or a permanent establishment shall notify the municipality in which this business or permanent establishment is located of such on an officially prescribed form; the municipality shall inform without undue delay the tax office responsible under section 22(1) of the content of the notification. Where responsibility for determining the non-personal taxes has not been conferred on the municipalities, the tax office responsible under section 22(2) shall take the place of the municipality. Any person who takes up self-employment shall notify the tax office with local jurisdiction under section 19 of such activity. The same shall apply for the relocation or discontinuation of a business, permanent establishment or self-employment.

(1a) Traders within the meaning of section 2 of the VAT Act may also fulfil their reporting obligations under subsection (1) above electronically at the revenue authority responsible for VAT.

(1b) In order to simplify the taxation procedure, the Federal Ministry of Finance may determine, by way of ordinances issued with the consent of the Bundesrat, that traders as defined in section 2 of the VAT Act must, when commencing a professional or commercial activity, in addition to the notifications under subsections (1) and (1a) above, provide the revenue authorities with information on the legal and actual circumstances relevant to taxation, using an officially prescribed data set sent via remote data transmission. The conditions under which an electronic transmission may be waived may be stipulated in such ordinances.

(2) Taxpayers with residence, habitual abode, place of business management or registered office within the territory of application of this Code shall inform the tax office responsible pursuant to sections 18 to 20 on an officially prescribed form of:

1. the founding and acquisition of businesses and permanent establishments abroad,
2. holdings, or their relinquishment or changes therein, in foreign partnerships,
3. the acquisition of holdings in a corporation, association or pool of assets within the meaning of section 2(1) of the Corporation Tax Act where this means that the holding reaches at least 10 percent directly or at least 25 percent indirectly of the capital or assets of the corporation, association or pool of assets, or when the sum of the costs of acquisitions of all holdings exceeds 150,000 euros.

(3) Disclosures under subsections (1) and (1a) above shall be made within one month of the reportable event. Disclosures under subsection (2) above shall be made within five months of the expiration of the calendar year in which the reportable event occurred.

¹ This translation is provided merely for information purposes. Only the German language version is authoritative for the application of the law.