

# Sole Proprietorship (Einzelunternehmen)

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A sole proprietorship is a business solely owned by an individual. The sole proprietor operates the business autonomously without receiving directives and does not need to consult with others for business decisions. All profits go directly into the owner's pocket. As a sole proprietor, you enjoy maximum flexibility and independence. However, you also bear all the risks. The owner is solely responsible for any business mistakes and losses. In such cases, the sole proprietor is liable not only with the business assets but also with personal assets, with no limit to the liability. It is not possible to limit liability in a sole proprietorship.

Sole proprietors are generally required to participate in social insurance. The proprietor must personally enroll and pay for statutory health insurance, long-term care insurance, pension insurance, and unemployment insurance.

If the business name is subject to commercial registration, the name of a sole proprietorship can be freely chosen. Sole proprietorships that are not registered in the commercial register must include the owner's name in the business name by default.

The establishment and operation of a sole proprietorship are formally possible with minimal cost and effort. Only one natural person is needed for the formation, and no minimum capital is required. You must register your business with the competent authorities and agencies, including the business registration office and the tax office. Additionally, you must register with the relevant occupational safety and health agency, as well as the Chamber of Commerce and Industry (IHK) or the Chamber of Crafts (HWK). If you hire employees as a sole proprietor, you must apply for a business number from the Federal Employment Agency.

Sole proprietorships not registered in the commercial register are not legally obliged to double-entry bookkeeping. Simple accounting is sufficient. For profit calculation, a simple income-expense statement (EÜR) must be submitted to the tax office.

Sole proprietors are required to pay income tax, value-added tax (VAT), and business tax. If the taxable income is less than €10,347 per year, you are exempt from paying income tax, considering the basic tax allowance. Business tax is also exempt up to €24,500 per year. If this limit is not exceeded, the sole proprietorship is exempt from business tax. If the total turnover of the previous year does not exceed €22,000 and the expected turnover of the current year does not exceed €50,000, the sole proprietorship can apply the VAT exemption under Section 19 of the Income Tax Act and be exempt from paying VAT. If a sole proprietor employs staff, income tax for the employees must be paid.

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## Legal Forms Belonging to Sole Proprietorships:

- **Registered Merchant (e.K.)**
- **Small Business (Kleingewerbetreibende)**
- **Freelancer**

### **Registered Merchant (e.K.):**

A sole proprietor operating a commercial business is referred to as a registered merchant (e.K.). Their business must be registered in the commercial register. This means they are subject to the provisions of the Commercial Code (HGB) and are obliged to double-entry bookkeeping and financial statement preparation. They must also conduct an inventory count once a year. However, registered merchants with sales below €600,000 and annual net income below €60,000 for two consecutive business years are exceptions.

### **Obligation to Prepare Financial Statements without Commercial Register:**

Merchants who are not registered in the commercial register but have sales exceeding €600,000 or net income exceeding €60,000 in the previous year are required to prepare financial statements (according to Section 141 of the Tax Code).

### **Small Business (Kleingewerbetreibende):**

Small businesses, depending on the type and scope, do not require commercial operations and are not obliged to register in the commercial register. Since they are not subject to the strict regulations of the Commercial Code, simple bookkeeping and a simple income-expense statement (EÜR) for profit calculation are sufficient. Additionally, small businesses are subject to the general regulations of civil and tax law.

If a small business does not apply the small business regulation, it can opt for VAT under the IST-taxation. This means that VAT is paid to the tax office when the customer actually pays the invoice, through VAT prepayment (Vorsteueranmeldung).

### **Freelancer:**

Freelancers are a specific type of sole proprietor. This legal form can only be chosen by certain professional groups. According to Section 18 of the Income Tax Act, freelancers perform activities in the fields of science, art, literature, teaching, or education and must demonstrate their professional qualifications or creative talent.

### The recognized professions include:

- ❖ Doctors, dentists, veterinarians, therapists, dental technicians, physiotherapists
- ❖ Lawyers, notaries, patent attorneys
- ❖ Surveying technicians, engineering technicians
- ❖ Architects

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---

- ❖ Industrial chemists
- ❖ Auditors
- ❖ Tax auditors, tax consultants
- ❖ Journalists, photojournalists, interpreters, translators
- ❖ Pilots
- ❖ Similar professions

The freelance status has special tax implications: Since they do not engage in manufacturing or sales, freelancers are not considered merchants under German tax law. Therefore, they are exempt from business registration and business tax obligations.

Ultimately, the tax office determines the freelance status. If you perform a catalog-like profession, you should clarify your status with the relevant professional association before starting your business. Except for freelancers who must register with professional associations, it is generally unnecessary to join the German Chamber of Commerce and Industry (IHK) and the statutory occupational health and safety association. Therefore, establishing a freelance business is particularly fast, simple, and cost-effective. It is sufficient to register with the tax office. Since no business registration (Gewerbeamtmeldung) is required, simple bookkeeping and an income-expense statement (EÜR) are sufficient.

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