

1 Introduction

If you operate a prostitution business or if you are a landlord of establishments of prostitution, this leaflet explains your tax liability.

The turnover and income of operators and landlords in the red light district are subject to taxation according generally applicable tax laws.

For taxation it is relevant to differentiate between the letting or leasing of places related to prostitution and the independent operation of prostitution businesses.

Often operators and landlords of establishments of prostitution inclusive vehicles believe only to have a tenancy with the prostitutes.

Actually the contractual relationship and business structure are decisive for the tax classification.

2 Operator of a prostitution business

You are an operator, if you act externally as an owner of a prostitution business (for example through corresponding advertising) and if you provide all services expected by the client, including the procuring of sexual services.

Recording obligation

Any revenue and expenditure have to be recorded in a separate, complete, correct, timely and orderly manner. Cash receipts and payments are to be recorded on a daily basis.

The postings and records are to be retained for a period of ten years.

Reporting obligation

You have to file the following documents to the tax office:

- **monthly** (for the previous month):
 - a turnover tax advance return
- **annually** (for the previous year):
 - an annual value added tax return,
 - an income tax return, and, if neces-

sary,

- a trade tax return

The above tax returns have to be transmitted to the tax office electronically. In exceptional cases they are accepted in paper form, too. **You can transmit tax returns electronically free of charge via www.elster.de/eportal. There you find detailed instructions for setting up a user account.**

Value added tax

The operator is a performing entrepreneur.

The **total revenue** in connection with the establishment is attributed to the operator. In addition to revenues from renting, entrance fees, beverage sales and other auxiliaries, **the payments of clients to prostitutes have to be included to 100 %**, too.

Input tax is only considered, if proper incoming invoices are presented.

Income tax

Your realized profits are subject to income tax as income from commercial business activity.

The **total revenue** in connection with the establishment is attributed to the operator. Additionally to the revenues from renting, entrance fees, beverage sales and other auxiliaries, the payments of clients to prostitutes have to be included to 100 %, too.

Payments to prostitutes are operating expenses of the operator.

If the operator does not disclose the names of the persons working in his establishment, the tax office can refuse the recognition and deduction of the occurred expenses as operating expenses.

The prostitutes can provide their services to the guests as subcontractor of the operator. But they can be in a working relationship with the operator, too.

Prostitutes are employees, if they are fully integrated into the organisation of a business establishment and with regard to time, duration, place and manner of execution are subject to the instructions of an operator.

Trade tax

Should your taxable profit plus certain additions and deductions be over € 24.500, trade tax will be levied, too.

Wages tax and social security

As employer you have to pay wages tax to the tax office for your employees (sex workers, bar staff, cleaners, security service, janitor). The electronic criteria for wages tax deduction (ELStAM) for employees, which are used for the determination of payable wages tax, have to be retrieved from the Federal Central Tax Office ("Bundeszentralamt für Steuern – BZSt") by means of remote data transmission and be taken over in the wage account of the employee.

Social insurance contributions are to be paid to the respective health insurance of the employees.

3 Renting to prostitutes

Renting means hiring an object, usually a housing space, against rental payments or other services in return.

If the landlord of premises acts externally as provider of the expected services (for example by advertising), he is regarded as an operator (see paragraph 2).

Value added tax (VAT)

The rent is subject to VAT if

- the rooms are rented short-term or
- the landlord facilitates or promotes the contact with the clients (e. g. room for contact or initiation) by organizational

measures. The landlord has to issue an invoice or a written rental agreement on his services to the prostitutes.

Income tax

The landlord has to prove his services to the prostitutes by an invoice or a written tenancy agreement. A duplicate of these documents has to be kept for ten years. The invoice or rental agreement must contain:

- the full name and complete address of the landlord and prostitute,
- the tax number of the landlord,
- the date of issue,
- a sequential invoice number,
- the nature and timing of the service,
- the remuneration as well as the tax rate and tax amount on the remuneration.

If the landlord does not issue an invoice or a tenancy agreement in time or if such documents are not retained for a period of ten years, the tax office may consider this as a misdemeanour punishable by a fine.

The landlord basically earns income from letting and leasing. The landlord has to comply with the above regulations.



For further questions, please contact your local tax office or the info hotline of the tax offices in Lower Saxony:



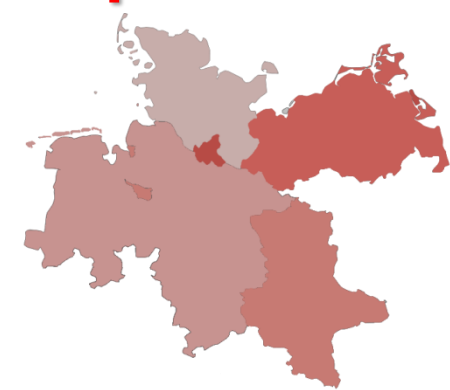
Published by:

- The Finance Senator of the Free Hanseatic City of Bremen
- Revenue Authority of the Free and Hanseatic City of Hamburg - Tax administration -
- Ministry of Finance of the Land of Mecklenburg-Western Pomerania
- Regional Finance Office (LStN) of the Land Lower Saxony
- Ministry of Finance of the Land of Saxony-Anhalt
- Ministry of Finance of the Land of Schleswig-Holstein

June 2019

Basic information:

Taxation of establishments and vehicles of prostitution



Bremen



Hamburg



Mecklenburg-Western Pomerania



Lower Saxony



Saxony-Anhalt



Schleswig-Holstein