

99102008000000

Heruntergeladen am 24.06.2025

<https://fimportal.de/xzufi-services/27431/L100042>

Modul	Sachverhalt
Leistungsschlüssel	99102008000000
Leistungsbezeichnung I	
Leistungsbezeichnung II	Tax assessment notice; lodging an objection
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Bayern
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	
Einheitlicher Ansprechpartner	
Fachlich freigegeben am	04.06.2025

Modul	Sachverhalt
Fachlich freigegeben durch	Bayerisches Staatsministerium der Finanzen und für Heimat (Bavarian State Ministry of Finance and Regional Identity)
Handlungsgrundlage	http://bundesrecht.juris.de/ao_1977/BJNR006130976.html#BJNR006130976BJNG007401301 http://bundesrecht.juris.de/ao_1977/BJNR006130976.html#BJNR006130976BJNG007401301 http://bundesrecht.juris.de/ao_1977/_91.html http://bundesrecht.juris.de/ao_1977/_91.html http://bundesrecht.juris.de/ao_1977/_110.html http://bundesrecht.juris.de/ao_1977/_110.html http://bundesrecht.juris.de/ao_1977/_126.html http://bundesrecht.juris.de/ao_1977/_126.html http://bundesrecht.juris.de/ao_1977/_152.html http://bundesrecht.juris.de/ao_1977/_152.html http://bundesrecht.juris.de/ao_1977/_178.html http://bundesrecht.juris.de/ao_1977/_178.html http://bundesrecht.juris.de/ao_1977/BJNR006130976.html#BJNR006130976BJNG005501301 http://bundesrecht.juris.de/ao_1977/BJNR006130976.html#BJNR006130976BJNG005501301 http://bundesrecht.juris.de/ao_1977/_240.html http://bundesrecht.juris.de/ao_1977/_240.html http://bundesrecht.juris.de/ao_1977/_329.html http://bundesrecht.juris.de/ao_1977/_329.html http://bundesrecht.juris.de/ao_1977/BJNR006130976.html#BJNR006130976BJNG007301301 http://bundesrecht.juris.de/ao_1977/BJNR006130976.html#BJNR006130976BJNG007301301
Teaser	If you believe the tax assessment is incorrect, you can lodge an appeal against it.
Volltext	<p>If you believe that the tax assessment is incorrect, you can lodge an objection.</p> <p>In these cases, an appeal is advisable:</p> <ul style="list-style-type: none"> • The tax office has not recognized all the expenses claimed from your tax return as income-related expenses, special expenses or extraordinary expenses. • Allowances were not taken into account because the requirements for them were allegedly not met. • Certain expenses were not recognized and you don't

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know why because the explanations in the tax assessment notice don't say.

- You only now realize that you have forgotten certain expenses in your tax return. Or: A receipt had disappeared and has only now reappeared.

It may also make sense to lodge an objection if you find out that a test case is pending in relation to a matter that concerns you. In this case, you should refer to this model case when justifying the objection. If the test case is pending as an appeal before the Federal Fiscal Court, the Federal Constitutional Court or the European Court of Justice, the tax office must suspend your objection until the case has been decided. It is important that the file number of the respective model case is stated and that the issue in dispute is also narrowed down.

The objection to the tax assessment notice can be lodged in writing or electronically. This can also be done by fax, computer fax or simple e-mail. You can also submit the objection directly to the tax office for recording. It is not possible to lodge an objection by telephone.

Send the objection to the tax office named as the sender in the tax assessment notice. Specify exactly which tax assessment you are appealing against (file number and date). Make it clear that you do not agree with the tax assessment. You are not required to give reasons, but it makes sense to do so. This will increase the chances of your appeal being upheld. If you lodge an unfounded objection to meet the deadline, state in your letter of objection that the reasons will follow.

Erforderliche Unterlagen

Voraussetzungen

none

Kosten

The objection procedure is free of charge. However, it must be expected that the case may develop to the disadvantage of the taxpayer.

If you consult a tax consultant or lawyer, you will have to bear the resulting costs yourself. The tax office will

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not cover these costs even if you are successful with your objection.

Verfahrensablauf

Procedure You can appeal against the tax assessment notice in accordance with the provisions of the German Fiscal Code (AO) (Sections 347-367). They govern the "extrajudicial appeal procedure". This is the objection. There is also the "judicial appeal procedure" in the form of a lawsuit in accordance with the Fiscal Court Code (FGO). Before you can take legal action, you must always go through the objection procedure.

The objection must be lodged within the appeal period.

You can also use an objection to defend yourself against the assessment of ancillary tax benefits, e.g.

- Late payment surcharges (§ 152 AO),
- interest (§§ 233-237 AO),
- late payment surcharges (§ 240 AO),
- penalty payments (§ 329 AO),
- Costs (sections 178, 337-345 AO).

Decision Once the objection has been lodged, the tax authority examines the decision. If the objection is admissible (i.e. the formal requirements are met), a decision is made on it.

If the tax office agrees with the applicant's reasons and amends the tax assessment accordingly, this is referred to as a remedy. If the tax office does not fully agree with the applicant's reasoning, this is referred to as partial relief.

The term "objection decision" refers to a rejection. In this case, the tax office refuses to amend the assessment.

Since 2007, there has also been the option of public announcement. This allows the tax authorities to reject general objections.

Loss assessment notice An objection to a tax assessment in the amount of EUR 0 is generally inadmissible. Instead, a loss assessment notice must

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be applied for within the objection period.

Application for correction If you have only found "minor" errors in the tax assessment notice, such as spelling or calculation errors, you may be able to dispense with a formal objection and submit an application for correction instead. Due to the lower administrative burden, you will usually receive a decision from the tax office more quickly. In contrast to an objection, however, in this case you cannot take direct legal action against the tax office's decision.

Income from an investment If you have income from an investment, you cannot appeal against the income tax assessment. If, for example, the income from a real estate partnership is incorrect, these amounts cannot be corrected via the income tax assessment. In this case, an objection must be lodged against the assessment notice. If the deadline is missed, the original assessment remains valid, even if the amount is obviously incorrect.

Application for suspension of enforcement Filing an objection does not release you from the payments required in the assessment notice. The payment deadlines specified there must be adhered to. If you do not wish to do so, you must apply for a "suspension of enforcement" at the same time as the objection. This means that the enforcement of the tax assessment notice can be suspended in whole or in part until the appeal proceedings have been concluded.

The tax office must comply with your request for suspension if enforcement would result in undue hardship for you that is not justified by overriding public interests or if there are serious doubts about the legality of the tax assessment, e.g:

- The Federal Fiscal Court has not yet decided the legal issue in dispute and there are differing opinions in the case law of the fiscal courts or in the literature.
- The senates of the Federal Fiscal Court have ruled differently or contradictorily.
- The legal situation, which has not been clarified by the supreme court, is unclear because the tax

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authorities have not ruled on it uniformly and concerns have been raised in the literature about the practice of the tax authorities.

- The tax office has not complied with the case law of the Federal Fiscal Court.
- The tax office has violated essential procedural regulations to your disadvantage.
- The tax office has inadequately presented the facts of the case.
- The tax office assumed incorrect facts and you present new facts.

In the event of a suspension, however, you must bear in mind that you will have to pay suspension interest if you lose the appeal proceedings. Currently, 0.5 % is charged for each full month.

"Appeal" When lodging an appeal, the tax office is forced to examine the entire assessment. This may reveal, for example, that you have been wrongly granted a benefit. You may then have to pay more than before. However, if this is the case, the tax office must inform you in advance. You then still have the opportunity to withdraw your objection if necessary. Conclusion of the out-of-court appeal procedure If the tax office accepts your grounds for objection, you will receive a new, corrected tax assessment notice. If the tax office considers your objection to be unfounded, it will probably ask you to withdraw it. If you then withdraw your objection, the matter is closed. If your objection is rejected, the tax office will send you a formal objection decision, which you can then appeal against.

Bearbeitungsdauer

Frist

Appeal period You can lodge an appeal within one month of receiving the tax assessment notice. The appeal is initially effective even if no reasons are given. Reasons can be submitted subsequently within a reasonable period of time. Restitutio in integrum If you have missed the objection deadline through no fault of your own, you can apply to the tax office for restitutio in integrum. You will then be treated as if the decision had just been issued. If the tax office has deviated from

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your tax return without first hearing you or pointing this out in the tax assessment notice, you are entitled to reinstatement within one year. If the tax office sets you a deadlineThe tax office can set you a reasonable deadline within which you must submit further documents, for example. The tax office may then no longer take into account late explanations or evidence in your favor in the objection procedure. If you do not have enough time, you should apply for an extension before the deadline expires.

weiterführende Informationen
Hinweise

The objection can also be lodged in the tax authorities' "My ELSTER" service portal (see "Online procedure" tab).

Rechtsbehelf
Kurztext
Ansprechpunkt
Zuständige Stelle
Formulare
Ursprungsportal

BayernPortal, BayernPortal