

M) Funding

1. Ordinance on Dues (Abgabenordnung - AO)

*of 16 March 1976 (Federal Law Gazette [BGBl.] Part I p. 613; BGBl. Part I 1977 p. 269),
last amended by Act of 20 December 2001 (BGBl. Part I p 3793)*

Part I: Introductory Provisions

Fourth Chapter: Fiscal Confidentiality

Section 30 Fiscal Confidentiality

(1) Office-holders shall keep fiscal confidentiality.

(...)

(3) The following shall be deemed equivalent to office-holders

(...)

3. holders of offices in the churches and other religious communities which are corporations under public law.

Section 31 Communication of Basis for Taxation

(1) The finance authorities shall be entitled to communicate the bases for taxation, basic tax assessment amounts and tax amounts to corporations under public law, including the religious communities which are corporations under public law, to determine taxes in connection with these bases for taxation, basic tax assessment amounts or tax amounts.

(...)

Part II: Law on Liability for Tax

Third Chapter: Tax Favoured Objectives

Section 51 General Provisions

If a statute grants tax relief because a corporation exclusively and directly serves non-profit, charitable or ecclesiastical purposes (tax favoured objectives) the following provisions shall apply. Corporations shall be understood to mean corporations, associations of persons and estates within the meaning of the Corporate Gains Tax Act (Körperschaftsteuergesetz). Functional sub-divisions (departments) of corporations shall not be deemed to be independent taxpayers.

Section 52 Non-Profit Purposes

(1) A corporation pursues non-profit purposes if its activities aim to selflessly promote the public in a material, spiritual or moral field. Promotion of the public shall not apply if the

group of persons benefited by the promotion is defined, such as membership of a family or the staff of an enterprise, or as a result of its delimitation, in particular by spatial or professional characteristics, and hence must be permanently small. Promotion of the public shall not apply solely because a corporation inputs its funds to a corporation under public law.

(2) Under the preconditions of subsection (1), the following shall be recognised as promotion of the public, in particular:

1. promotion (...) of religion, (...)

(...)

Section 54 Ecclesiastical Purposes

(1) A corporation pursues ecclesiastical purposes if its activities aim to selflessly promote a religious community which is a corporation under public law.

(2) These purposes shall include in particular the establishment, equipment and maintenance of houses of God and church community buildings, holding religious services, training of clerics, giving religious instruction, burial and care for the remembrance of the dead, as well as the administration of church assets, payment of clerics, church civil servants and church servants, old-age and disabled pensions for these persons and pensions for their widows and orphans.

Section 62 Exceptions from the Statutory Commitment of Assets

With the operation of commercial enterprise of corporations under public law, with state-supervised foundations, with non-independent foundations administrated by a corporation under public law and with clerical communities (orders, congregations) the formation of assets shall not require to be determined in the statutes.

Section 64 Economic Business Operations with Liability to Tax

(1) If the law rules out tax exemption to the extent that an economic business operation is operated (section 14), the corporation shall lose the tax advantage for the tax basis to be allocated to the business operation (income, turnover, assets) where the economic business operation is not a purpose-determined commercial activity (sections 65 to 68).

(...)

Section 68 Individual Purpose-Determined Commercial Activities

Purpose-determined commercial activities shall also be:

(...)

6. lotteries and lottery draws approved by the competent authorities, if the net yield is used exclusively and directly to promote charitable, ecclesiastical or non-profit purposes,

(...)

Part III: General Procedural Provisions

Chapter I: Procedural Principles

Section 102 Right to Refuse to Provide Information to Protect Specific Professional Secrets

(1) Information may also be refused by:

1. clerics on what has been entrusted or become known to them in their capacity as spiritual advisers,

(...)

(2) Equal to the persons named in subsection (1) Nos. 1 to 3 shall be their assistants and persons persons, while being trained for their profession participate in this professional activity. The persons named in subsection (1) Nos. 1 to 3 shall decide on the exercise of the right of these auxiliaries to refuse to provide information unless such decision cannot be obtained in the foreseeable future.

Part IV: Implementation of Taxation

Chapter I: Collation of Taxpayers

Section 135 Duty to Participate in Recording Civil Status and Establishments

(...)

(2) The inhabitants and sub-tenants of a dwelling shall provide the information on themselves and on the persons belonging to their households on the official forms which are necessary to record personnel and establishments, in particular with regard to names, civil status, date and place of birth, religious affiliation, place of residence, work or employment, establishments.

(...)

Part VIII: Criminal and Criminal Fine provisions; Criminal and Criminal Fine Proceedings

Chapter III: Criminal Procedure

Section 386 Competence of the Finance Authority in Fiscal Criminal Offences

(...)

(2) The finance authority shall independently effect the investigation proceedings within the limits imposed by section 399 subsection (1) and sections 400 and 401 if the offence

(...)

2. simultaneously also breaches other criminal statutes and their violation relates to church taxes or other public-law levies linked to the tax basis, basic tax assessment amounts or tax amounts.

2. 1997 Income Tax Act (Einkommensteuergesetz - EStG 1997)

new version of 16 April 1997 (Federal Tax Gazette [BStBl.] Part I p. 821), last amended by Act of 20 December 2001 (BGBl. Part I p. 3794)

II. Income

Section 3 Tax-Free Income

The following shall be tax free

(...)

26. income from secondary-occupation work as an exercise supervisor, trainer, educator, carer or comparable secondary-occupation activities, from secondary-occupation artistic activities or the secondary-occupation care of old, sick or disabled people in the service of or on behalf of a domestic legal entity under public law or of a facility falling under section 5 subsection (1) No. 9 of the Corporate Gains Tax Act (Körperschaftsteuergesetz) to promote non-profit, charitable and ecclesiastical purposes (sections 52 to 54 of the Ordinance on Dues) up to a total of 1.848 Euro per year. If the income for the work designated in the first sentence exceeds the tax-free amount, the expenses directly economically connected with the secondary-occupation work may in divergence to section 3c only in so far be deducted from tax as operational or advertising costs insofar as they exceed the amount of the tax-free income;

(...)

Section 10 Special Expenses

(1) Special expenses shall be the following expenditure if they are neither operational expenses nor advertising costs:

(...)

4. paid church tax;

(...)

Section 10b Tax Favoured Objectives

(1) Expenses to promote charitable, church, religious, scientific and those non-profit purposes recognised as particularly worthy of promotion shall be deductible up to the amount of five percent of the total income amount or two thousandths of the total of the whole turnover and salaries and wages expended in the calendar year as special expenses. For scientific, charitable, and cultural purposes recognised as particularly worthy of promotion the percentage shall increase from five by another five percent. Allowances to foundations under public law and to tax-exempted foundations under private law in accordance with section 5 subsection (1) No. 9 of the Corporate Gains Tax Act to promote objectives enjoying favourable fiscal treatment within the meaning of sections 52 to 54 of the Ordinance on Dues with the exception of purposes that are non-profit in accordance with section 52 subsection (2) No. 4 of the Ordinance on Dues shall be additionally deductible up to 40,000 Deutsche Mark, from 1 January 2002 20,450 Euro. If an individual allowance of at least 25.565 Euro to promote scientific, charitable or cultural purposes recognised as particularly worthy of promotion exceeds these maximum amounts, it shall be deducted in connection with the maximum

amounts in the assessment period of the allowance, in the previous and in five subsequent assessment periods. Section 10d shall apply mutatis mutandis.

(...)

VI. Levying of Taxes

Section 44c Refund of Capital Gains Tax to Specific Corporations, Groups of Persons and Estates

(1) If the creditor is a domestic

(...)

3. legal entity under public law exclusively and directly serving ecclesiastical purposes, the Federal Finance Office shall refund except in cases falling under section 44a subsection (4) on application of the creditor the retained and paid capital gains tax. This shall be conditional on the creditor proving to the Federal Finance Office by a certification of the finance office competent for its management or its seat that it is a corporation, group of persons or estate within the meaning of the first sentence. Section 44a subsection (2) second to fourth sentences and subsection 4 fifth sentence shall apply mutatis mutandis. The application shall apart from the certification in accordance with the second sentence be supplemented by a certification within the meaning of section 45a subsection (2) or (3).

(...)

X. Child Benefit

Section 72 Determination and Payment of Child Benefit to Members of the Public Service

(1) If persons who

1. are in a service, official or training relationship under public law, with the exception of honorary civil servants, or
2. receive pension payments in accordance with provisions or principles relating to the public service or to the military, or
3. are employees of the Federation, of a Land, of a municipality, of a municipal association or of another corporation, of an institute or of a foundation under public law, including those employed in providing them with vocational training,

are entitled to child benefit in accordance with this act, it shall be set and paid by the corporations, institutes or foundations under public law. The legal persons named shall be family cash offices in this sense.

(...)

(3) Subsection (1) shall not apply to persons who receive their remuneration

1. from an employer in the sphere of the religious societies under public law, or
2. from a central independent welfare association, a membership association directly or indirectly connected with the latter or of a facility or institute connected to such an association.

(...)

3. 1999 Corporate Gains Tax Act (*Körperschaftsteuergesetz - KStG*)

of 31 August 1976 (Federal Law Gazette [BGBl.] Part I p. 2597), in the version of the proclamation of 22 April 1999 (BGBl. Part I p. 817), last amended by Act of 20 December 2001 (BGBl. Part I p. 3794)

Section 5 Exemptions

(1) The following shall be exempt from corporate gains tax

(...)

3. pension, death and health insurance funds granting a legal right to persons benefiting from payments from the funds or who are to benefit, and have legal capacity (beneficiaries), and relief funds which have legal capacity not granting their beneficiaries a legal claim,

a) if the fund restricts itself

(...)

bb) to members or former members of the central independent welfare associations (German Working Men's Welfare Association, German Association of (Roman-Catholic) Charitable Organisations ("Caritas"), German Equal Representation Welfare Association, German Red Cross, Domestic Mission, Agency of Charitable Organisations of the Protestant Church in Germany and Central Welfare Agency of the Jews in Germany) including their sub-divisions, facilities and institutes and other non-profit welfare associations, or

(...)

9. corporations, groups of persons and estates serving by their statutes, the act of foundation or the other constitution and in accordance with the actual business exclusively and directly charitable, non-profit and ecclesiastical purposes (sections 51 to 68 of the Ordinance on Dues). If an economic operation is maintained, the tax exemption shall be excluded to that degree. (...)

(...)

Section 9 Deductible Expenses

(1) Deductible expenses shall be also:

(...)

2. on reserve of section 8 subsection (3) expenses to promote charitable, ecclesiastical, religious (...) purposes and the non-profit purposes recognised as particularly worthy of promotion up to the amount of five percent of the total income amount or two thousandths of the total of the whole turnover and salaries and wages expended in the calendar year as special expenses. (...)

(...)

4. 1999 Turnover Tax Act (*Umsatzsteuergesetz - UStG*)

in the version of the proclamation of 9 June 1999 (Federal Law Gazette [BGBl.] Part I p. 595), last amended by Act of 20 December 2001 (BGBl. Part I p. 3794)

Section 4 Tax Exemption with Deliveries and Other Services

The following of the turnovers at section 1 subsection (1) No. 1 shall be tax-free:

(...)

18. services provided by officially-recognised independent welfare associations and corporations, groups of persons and estates serving independent welfare, which are linked to a welfare association as members if
 - a) these entrepreneurs exclusively and directly pursue non-profit, charitable or church ends,
 - b) performance directly benefits the group of persons favoured in accordance with the statutes, foundation or other constitution, and
 - c) the charges for the payments considered are less than the average charges for comparable services by commercial enterprises. Tax-free shall be also board and lodging and the usual benefits in kind granted by these entrepreneurs to persons active in the performance in accordance with the first sentence as emolument for the services provided;

(...)

27. a) appointment of members of clerical communities and members of central houses for non-profit, charitable, ecclesiastical or school purposes;

(...)

Section 4a Tax Refund

(1) Corporations which pursue exclusively and directly non-profit, charitable or ecclesiastical ends (sections 51 to 68 of the Ordinance on Dues) and legal entities under public law shall be granted on application a tax refund to compensate for the tax levied on them in respect of delivery to them of an item, its import or its intra-Community acquisition if the following preconditions are met:

1. The delivery, import or intra-Community acquisition of the item must have been liable to tax.
2. The tax incurred on delivering the item must have been stated separately in an invoice within the meaning of section 14 subsection (1) and paid for with the purchase price.
3. The tax owed for the import or intra-Community acquisition of the item must have been paid.
4. The item must have reached the third country territory.
5. The item must be used in the third country territory for humanitarian, charitable or educational purposes.
6. The acquisition or the importation of the item and its exportation may not have been effected by a corporation which pursues objectives enjoying favourable fiscal treatment, in connection with an economic business establishment and by a legal entity under public law in connection with a trade establishment (section 1 subsection (1) No. 6 and section 4 of the Corporation Tax Act) or by an agricultural and forestry establishment.

7. The above preconditions must be proven. The application shall be made in accordance with an officially prescribed form in which the applicant shall calculate the emolument to be paid him/herself.

Section 12 Tax Rates

- (1) The tax shall be for each turnover liable to tax sixteen percent of the assessment basis (section 10, section 11, section 25 subsection 3 and section 25a subsections (3) and (4)).
- (2) The tax shall be reduced to seven percent for the following turnovers
- (...)
8. a) performance by corporations which pursue exclusively and directly non-profit, charitable or ecclesiastical purposes (section 51 to section 68 of the Ordinance on Dues). This shall not apply to performance effected in connection with an economic business establishment,
- b) performance by associations of persons and communities with no legal capacity of the corporations referred to (a) first sentence if this performance as a whole would be taxed at a reduced rate if the corporations executed a portion of them themselves;

5. 1999 Trade Tax Act (*Gewerbesteuer*gesetz - *GewStG*)

of 1 December 1936 (Reich Law Gazette [RGBl.] Part I p. 979), in the version of the proclamation of 19 May 1999 (BGBl. Part I p. 1010, corr. p. 1491), last amended by Act of 20 December 2001 (BGBl. Part I p. 3794)

Part I: General Provisions

Section 3 Exemptions

The following shall be exempt from trade tax

(...)

6. corporations, associations of persons and estates which in accordance with their statutes, the act of foundation or the other constitution and in accordance with the actual management of business exclusively and directly pursue non-profit, charitable or ecclesiastical ends (sections 51 to 68 of the Ordinance on Dues). If an economic business establishment - with the exception of agriculture and forestry - is operated, the tax exemption shall be ruled out in this respect;

(...)

Part II: Assessment of the Trade Tax

Section 9 Reductions

The total of the profit and the additions shall be reduced by

(...)

5. the expenses paid from the funds of the economic establishment to promote charitable, ecclesiastical, religious, scientific or non-profit purposes recognised as particularly worthy of promotion within the meaning of the section 10 b subsection (1) of the Income Tax Act or of section 9 subsection (1) No. 2 of the Corporate Gains Tax Act up to a total of five percent of the profit from trade operations (section 7) increased by the additions in accordance with section 8 No. 9 or two thousandths of the total of the turnover and the wages and salaries spent in the economic year. (...)

**6. Act on Inheritance Tax and Gifts Tax
(Erbchaftsteuer- und Schenkungsteuergesetz - ErbStG)**

of 17 April 1974 (Federal Law Gazette [BGBl.] Part I p. 933), in the version of the proclamation of 27 February 1997 (BGBl. Part I 1997 p. 378), last amended by Act of 20 December 2001 (BGBl. Part I p. 3794)

Section 13 Tax Exemptions

(1) The following shall remain exempt from tax

(...)

13. allowances to pension and relief funds within the meaning of the section 5 subsection (1) No. 3 of the Corporate Gains Tax Act if they meet the preconditions for exemption from corporate gains tax. If a fund in accordance with section 6 of the Corporate Gains Tax Act is partly liable to tax, the allowance shall also be liable to tax in the same proportion. The exemption shall cease with effect for the past if the preconditions of section 5 subsection (1) No. 3 of the Corporate Gains Tax Act cease within ten years after the allowance;

(...)

16. allowances

- a) to domestic religious societies under public law or domestic Jewish congregations,
- b) to domestic corporations, associations of persons and estates which in accordance with their statutes, the act of foundation or the other constitution and in accordance with their actual business exclusively and directly pursue ecclesiastical, non-profit or charitable ends. The exemption shall cease with effect for the past if the preconditions for the recognition of the corporation, association of persons or estate as an ecclesiastical, non-profit or charitable institution fall away within ten years after the allowance and the assets do not flow to purposes which are afforded favourable treatment,
- c) to foreign religious societies, corporations, associations of persons and estates of the nature referred to in (a) and (b) on condition that the foreign state has granted a corresponding tax exemption for allowance to German entities of the type referred to in (a) and (b) and the Federal Ministry of Finance determines this by means of formal exchange of corresponding declarations with the foreign state;

17. allowances pursuing exclusively ecclesiastical, non-profit or charitable purposes if their use for the envisaged purposes is ensured;

(...)

7. Act on Real Property Tax (Grundsteuergesetz - GrStG)

of 7 August 1973 (Federal Law Gazette [BGBl.] Part I p. 965), last amended by Act of 19 December 2000 (BGBl. Part I p. 1790)

Section 3 Tax Exemption in Respect of Ownership of Real Property for Specific Entities⁵⁸

(1) The following shall be exempt from real property tax

(...)

4. real property used by a religious society which is a corporation under public law, one of its orders, one of its religious confraternities or one of its associations for purposes of religious instruction, science, instruction, education or for purposes of internal administration. Jewish congregations which are not corporations under public law shall be equal to religious societies;
5. official residences of clerics and church servants of religious societies which are corporations under public law and the Jewish congregations. Section 5 shall not apply in this respect;
6. real property of religious societies, which are corporations under public law, and Jewish congregations which belongs on 1.1.1987 and at the assessment time to a fund that is separate in accordance with canon law, in particular a job fund, the proceeds of which are intended exclusively for payment and pensions of clerics and church servants, as well as their surviving dependants. If in the territory named in article 3 of the Unification Treaty⁵⁹ the fact of the real property belonging to a special fund within the meaning of the first sentence did not pertain on 1.1.1987, it shall be sufficient in this respect for the real property to have belonged prior to 1.1.1987 to a special fund within the meaning of the first sentence. Sections 5 and 6 shall not apply in this respect. The real property must be exclusively allottable to the party using it for the favoured purpose, or to another favoured entity in accordance with Nos. 1 to 6.

Section 4 Other Tax Exemptions⁶⁰

Unless an exemption emerges in accordance with section 3, the following shall be exempt from real property tax

1. real property devoted to the religious service of a religious society which is a corporation under public law, or of a Jewish congregation;
2. burial grounds;

(...)

⁵⁸ Note: This tax exemption is restricted to ownership of real property used for residential purposes in accordance with section 5.

⁵⁹ Note: Article 3 of the Unification Treaty (Einigungsvertrag) of 31.8.1990 (Federal Law Gazette [BGBl.] Part II p. 889) names the following Länder: Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia, as well as the Eastern part of Berlin, in other words the territory of the former GDR.

⁶⁰ Cf. note on section 3.

**8. Act on the Principles of Budgetary Law of the Federation and the Länder -
Budgetary Principles Act (Gesetz über die Grundsätze des Haushaltsrechts des Bundes und
der Länder - Haushaltsgrundsätzegesetz - HGrG)**

*of 19 August 1969 (Federal Law Gazette [BGBl.] Part I p. 1273), last amended by Act
of 20 December 2001 (BGBl. Part I p. 3955 and 3961)*

Section 55 Examination of Legal Entities under Public Law

(1) If a legal entity under public law which is not a territorial authority, municipal association, combination of territorial authorities or municipal associations or a religious society under public law in accordance with article 137 para 5 of the German Constitution of 11 August 1919 receives from the Federation or a Land subsidies the reason or amount of which is statutorily reasoned, or if a guarantee obligation of the Federation or of a Land is statutorily reasoned, the Federal or Land Court of Audit shall examine the budgetary and economic management of the legal entity. The same shall apply if the examination is provided for with the consent of a Court of Audit in the statutes. Other rights to examine reasoned in accordance with section 48 shall remain unaffected.

(...)

**9. Act on Collection of Church Taxes in the Land of North Rhine-Westphalia
(Gesetz über die Erhebung von Kirchensteuern im Land Nordrhein-Westfalen -
Kirchensteuergesetz - KiStG)**

*of 30 April 1962 (GV. NW p. 223) in the version of the proclamation of 22 April 1975 (GV NW
p. 438), last amended by Act of 6 March 2001 (GV NRW p. 103)*

Section 1 [Own Tax Regulations]

The Catholic Church and the Protestant Church shall levy church taxes in the Land of North Rhine-Westphalia on the basis of their own tax regulations.

Section 2 [Diocesan, Land and Local Church Taxes]

(1) Church taxes may be levied in accordance with the tax regulations

1. as diocesan church tax or Land Church tax
2. as local church tax,
3. simultaneously as diocesan church tax or Land Church tax and local church tax.

(2) The tax regulations shall be issued by the Dioceses of the Catholic Church and the Protestant Land Churches.

(3) The corporation competent in accordance with the tax regulations shall determine the amount of the church taxes to be levied.

Section 3 [Church Taxpayers]

(1) All members of the Catholic Church and the Protestant Church who are resident or have their habitual place of residence in the Land of North Rhine-Westphalia within the meaning of sections 8 and 9 of the Ordinance on Dues shall be liable to church tax.

(2) Liability to pay church tax shall terminate with resignation from the church declared in accordance with the valid state provisions on expiry of the calendar month in which the declaration of resignation from the church has become effective.

Section 4 [Collection]

(1) Church taxes may be levied

1. a) as a supplement to income tax and wage tax, also with setting minimum amounts, or
b) in accordance with income on the basis of a special tariff (church tax on income).
2. as a supplement to property tax (church tax on property),
3. as a supplement to the real property tax assessment amounts (church tax on real property),
4. as general church dues,
5. as special church dues by church taxpayers whose spouses are not liable to church tax.

(2) Prior to calculating the church tax in accordance with subsection (1) No. 1 (a) the income tax and wage tax shall be ascertained in accordance with section 51 a of the Income Tax Act in its version valid at the time. If for the special church dues in accordance with subsection (1) No. 5 the taxable income within the meaning of the Income Tax Act is taken as a basis for assessment, the amount shall be relevant which is to be taken as a basis for ascertaining the income tax in accordance with the first sentence.

(3) Church taxes in accordance with subsection (1) may be levied in parallel. Church taxes on income in accordance with subsection (1) No. 1 (a) and in accordance with subsection (1) No. 1 (b) cannot be levied in parallel.

(4) In the tax regulations it may be stipulated that church taxes of one type may be offset against church taxes of another type. A church tax in accordance with subsection (1) No. 1 (a) shall always be offset against a special church due in accordance with subsection (1) No. 5. Those contributions shall also be offset against special church dues which have been paid by the non-church-taxpayer spouse as a member of a public-law religious community which does not levy church tax.

(5) If the church tax on income is levied in parallel as Diocese church tax or Land Church tax and as local church tax, a joint tax rate shall be determined therefor.

Section 5 [Assessment]

(1) The provisions relating to income and wage tax, in particular the provisions regarding the pay deduction procedure, the provisions on real property tax and the provisions on property tax shall apply mutatis mutandis to the church taxes named in section 4 subsection (1) Nos. 1 to 3 and 5.

(2) If the liability to pay church tax does not pertain during the whole calendar year, for each calendar month in which the liability to pay church tax pertains, one twelfth each of the amount shall be levied which would result as annual tax liability if the liability to pay church tax were

to pertain for the whole year. This shall however not apply - on reserve of the third sentence - if the unrestricted liability to pay income tax begins or ends at the same time as the commencement or end of the liability to pay church tax during the calendar year. The first sentence shall also apply if in cases falling under section 2 subsection (7) third sentence of the Income Tax Act in an assessment to the unrestricted duty to pay income tax the domestic income made during the restricted duty to pay income tax has been included.

Section 6 [Inter-Confessional Marriages]

(1) If spouses belong to different churches entitled to levy taxes (inter-confessional marriages) and if the conditions apply for a joint income tax declaration (sections 26 and 26 b of the Income Tax Act) both churches shall levy the church tax in the form of the supplement to income and wage tax (section 4 subsection (1) No. 1 (a)) from both spouses as follows:

1. if the spouses declare income tax together, from half the income tax;
2. if one spouse or both spouses are liable to pay wage tax, from half the wage tax.

The spouses shall be jointly and severally liable. In the wage deduction procedure, the church tax shall be deducted from each spouse also for the other.

(2) If the conditions do not apply for a joint income tax assessment, or if the spouses are taxed separately (section 26a of the Income Tax Act) or specially (section 26c of the Income Tax Act), the church tax shall be levied from the income of each spouse in accordance with his/her church affiliation and with the tax assessment basis applying to them personally.

(3) Subsection (2) shall apply *mutatis mutandis* to collection of the other types of church tax named in section 4 subsection (1) - with the exception of the special church dues in accordance with section 4 subsection (1) No. 5.

Section 7 [Inter-Faith Marriages]

(1) If only one spouse belongs to a church entitled to levy taxes (inter-faith marriage), the church entitled to levy taxes shall levy the church tax in accordance with the tax assessment basis relating to that person.

(2) If the spouses are taxable together for income tax (section 26 b of the Income Tax Act), the church tax of the spouse liable to pay tax shall be proportionally calculated in the shape of the supplement to income tax. The church tax shall be calculated in accordance with the part of the joint income tax - to be calculated in accordance with section 4 subsection (2) first sentence - incurred by the spouse liable to pay tax if the joint tax in the ratio of the income tax amounts that would emerge in application of section 32 a subsections (1) to (3) of the Income Tax Act (income tax tariff) on the income of each spouse is distributed between the spouses.

Section 8 [Application of General Tax Statutes]

(1) The provisions of the Ordinance on Dues and of the Act on Service in Administrative Procedure (Verwaltungszustellungsgesetz) in their respectively applicable versions shall apply *mutatis mutandis* to church taxes unless a special regulation has been stipulated in this act.

(2) The provisions of the Fifth Part of the Ordinance on Dues (interest, delay penalties) and the provisions of the Eighth Part (provisions relating to criminal and administrative fines, criminal and administrative fine procedures) shall not be applicable.

(3) For the origination of the fiscal debt with church taxes on income, with general and with special church dues the provisions on the origination of the tax due with income tax shall apply; for the origination of the tax due with church taxes on property and on real property the provisions shall apply on the origination of the fiscal debt with property tax and real property tax.

(4) The churches shall be competent for respite and abatement of the church taxes. They may transfer power to these agencies in respect of the church taxes managed by the finance offices or by the municipalities (municipal associations).

Section 9 [Administration by Finance Offices]

On application of the Dioceses of the Catholic Church, or on application of the Protestant Land Churches, the ministry competent for the Land finance administration shall assign to the finance offices the administration of the church taxes on income and assets and of the special church dues. If the church tax on income is levied because of a special tariff or as special church dues, the obligation to transfer shall only pertain with regard to taxpayers liable to income or wage tax. In the other cases - with the exception of the general church dues - the administration of church tax may be assigned to the finance offices. Undertaking of administration shall be effected for an emolument that is to be agreed.

Section 10 [Payment of Church Tax]

(1) Where church tax on income is administrated by the finance offices, employers whose establishments are in the Land of North Rhine-Westphalia shall be obliged to collect the church tax from all Catholic and Protestant employees with residence or habitual place of residence within the meaning of sections 8 and 9 of the Ordinance on Dues in the Land of North Rhine-Westphalia in the amount of the relevant tax rate for the place of the establishment - within the meaning of the law on wage tax - and to pay it to the finance office competent for the employer.

(2) On application of Dioceses of the Catholic Church or on application of Protestant Land Churches whose area wholly or partly lies outside the Land of North Rhine-Westphalia, the ministry competent for the Land finance administration in agreement with the ministry competent for church matters may order the collection and payment of church tax using the wage deduction procedure also for those employees who are liable to pay tax to these churches who do not have their residence or habitual place of residence in the Land of North Rhine-Westphalia, but are paid by an establishment in the Land of North Rhine-Westphalia. If the tax rates at the place of residence are lower than at the establishment, the application shall only be approved if it is ensured that too much collected church tax will be refunded.

(3) If another tax rate applies to the residence or habitual place of residence of employees than to the place of the establishment, the finance office of the establishment in cases falling under subsection 2 may on application permit the employer to collect and pay the church tax of these employees in accordance with the tax rate applicable at the residence or habitual place of residence. The decision of the finance office shall require for its effectiveness the consent of the Diocese of the Catholic Church and the Protestant Land Church in whose area the employer maintains the establishment.

Section 11 [Administration by Municipalities]

The church tax on real property may on application of the corporation competent in accordance with the Ordinance on Dues be administrated by the municipalities (municipal associations). Administration shall be carried out for an emolument that is to be agreed.

Section 12 [Administration by Churches]

If the church tax is administrated by the churches themselves, the church tax including additional payment shall on application be collected by the finance offices in accordance with the provisions of the Ordinance on Dues or by the municipal law enforcement authorities where these collect the base tax, in accordance with the provisions of the administrative executory procedure.

Section 13 [Taxation Documents]

The competent Land or municipal authorities shall provide to the churches on request the documents required for taxation and for the church financial equalisation.

Section 14 [Objection and Legal Recourse]

(1) The taxpayer shall be entitled to file an objection to collection of church tax as an out-of-court legal recourse which shall be submitted within a period of one month from announcement of the tax notice to the agency stated in the Ordinance on Taxes. If the tax is collected by means of wage deduction, the objection shall be admissible until expiry of the calendar month following the wage payment period in which the deduction has been effected.

(2) The agency stated in the Ordinance on Taxes shall rule on the objection. The Seventh Part of the Ordinance on Dues shall apply mutatis mutandis to the procedure.

(3) The provisions of subsections (1) and (2) shall apply analogously in the event of the rejection of respite and abatement applications.

(4) Recourse to the Finance Courts shall be available in cases falling under subsections (1) and (3). The provisions of the Rules of Procedure of the Finance Courts in the version respectively applicable shall apply unless otherwise stipulated in this act.

(5) The participating authority (section 57 of the Rules of Procedure of the Finance Courts) is only the agency which in accordance with the Ordinance on Taxes is to decide on the objection (subsection (2)); section 122 subsection (2) of the Rules of Procedure of the Finance Courts shall remain unaffected.

(6) Demurs against the base tax (section 4 subsection (1) Nos. 1 to 3) shall be inadmissible. The same shall apply if the basis for assessment of the special church dues (section 4 subsection (1) No. 5) is the taxable income (section 4 subsection (2) second sentence).

Section 15 [Other Religious Communities]

(1) This act shall apply mutatis mutandis to religious communities which have the rights of a corporation under public law.

(2) The obligation to transfer the administration of church taxes to the finance offices within the meaning of the section 9 shall apply in this case only if

1. the religious community entitled to levy taxes has at least 40,000 members in the Land,

2. the religious community entitled to levy taxes collects the church tax in accordance with the same tax rates as the churches entitled to levy taxes, and
3. where there are religious communities with the same confession in the Land, these all collect taxes in accordance with uniform principles.

No. 1 shall not apply to religious communities for which the administration of church tax was assigned to the finance office on entry into force of the act of 5 November 1968.

Section 16 [State Recognition]

- (1) The church tax regulations and resolutions shall require state recognition.
- (2) If no recognised church tax resolution is available at the start of a fiscal year, the church tax resolution of the previous year shall continue to apply to the fiscal year until a new church tax resolution has been recognised.

Section 17 [Statement of Recognition]

- (1) Recognition in accordance with section 16 shall be stated by the ministry responsible for church matters and the ministry responsible for the Land finance administration unless otherwise determined in subsection (2).
- (2) If the church taxes are levied as local church taxes, the chief officials (Regierungspräsidenten) shall be competent for recognition of the church tax resolutions. Recognition of the individual church tax resolutions shall not be required if the ministry responsible for church matters and the ministry responsible for Land finance administration on application of the bishopric of the Catholic Church or on application of the Protestant Land Churches generally recognise the tax rates and the corporations responsible in accordance with the Ordinance on Taxes adopt these tax rates.

Section 18 [Implementation of this Act]

- (1) Executive ordinances relating to
 1. the period for which church tax is levied,
 2. the time when the administration of church taxes by the finance offices and the municipal fiscal authorities can be assumed or returned,
 3. the collection of church tax in the wage deduction procedure in accordance with section 10 subsection (2), and
 4. the procedure for recognition in accordance with sections 16 and 17 shall be issued by the ministry responsible for church matters and the ministry responsible for Land finance administration in agreement with the churches.
- (2) Executive ordinances governing the administration of church taxes, as well as the respite and the abatement of church taxes by the finance offices in accordance with section 9 and section 8 subsection (4), shall be issued by the ministry responsible for Land finance administration. Legal provisions governing the administration of church tax on real property and the respite and abatement of this church tax by the competent municipality or the competent municipal association in accordance with section 11 and section 8 subsection (4) shall be issued by the latter.

(3) The administrative provisions required to implement this act shall be issued by the ministry responsible for church matters and the ministry responsible for Land finance administration.

Section 19 [Final Provisions]

(1) This Act shall enter into force on 1 January 1963. At the same time, all provisions of the previous Land law on church taxes shall become invalid.

(...)

***10. Act Governing Resignation from the Churches, Religious Communities and Ideological Communities under Public Law [of North-Rhine Westphalia] (Gesetz zur Regelung des Austritts aus Kirchen, Religionsgemeinschaften und Weltanschauungsgemeinschaften des öffentlichen Rechts [von Nordrhein-Westfalen] - Kirchenaustrittsgesetz - KiAustrG)
of 26 May 1981 (GV NRW p. 260)***

Section 1 [Declaration of Resignation]

Resignation from a church or another religious or ideological community under public law with effect for the sphere of the state shall be effected by making a declaration to the Local Court in whose area the declarer has his/her residence, or lacking a residence habitual place of residence.

Section 2 [Age]

(1) Resignation may be declared by the person resigning if he/she has reached the age of 14 and is not incapable of entering into legal transactions.

(2) For children aged under 14 and for those who are incapable of entering into legal transactions, the legal representative with personal custody can declare the resignation. If the legal representative is a guardian or curator, he/she shall require the approval of the Guardianship Court therefor.

(3) If a child has reached the age of 12, his/her resignation may only be declared with his/her consent.

Section 3 [Provisions Relating to Form]

(1) The declaration of resignation may be given orally or in writing.

(2) The church, religious or ideological community from which the declarer wishes to resign must be clearly designated. Proof of affiliation shall not be required.

(3) The declaration of resignation shall state last name, first names, date and place of birth, residence and marital status.

(4) The declaration of resignation may not contain reservations, conditions or supplements.

(5) The oral declaration must be made for the record of the registrar of the competent Local Court. The written declaration must be submitted as an individual declaration in publicly-certified form.

(6) A declaration of resignation by an empowered representative shall be inadmissible.

Section 4 [Effectiveness]

- (1) With the effectiveness of the declaration of resignation, for the area of state law all and any rights and duties based on personal affiliation to the church, religious or ideological community shall be ceased.
- (2) The declaration of resignation shall become effective on expiry of the day on which the record of the declaration of resignation has been signed or on which the written declaration is received by the Local Court.
- (3) The end of the duty to pay church tax as a consequence of resignation from the church shall be governed by the Act on Collection of Church Taxes in the Land of North Rhine-Westphalia in the respectively applicable version.
- (4) Legal duties not based on personal affiliation to the church, religious or ideological community, in particular burdens for which particular plots of land are liable by reason of a specific legal title, shall remain unaffected by the declaration of resignation.

Section 5 [Resignation Certificate — Notices]

- (1) The Local Court shall issue the person resigning with a resignation certificate without delay after submission of the declaration of resignation. The certificate shall state when the declaration of resignation became effective.
- (2) The Local Court shall inform the church, religious or ideological community without delay by sending a certified copy of the declaration of resignation. It shall communicate resignation to the registration authority competent for the residence of the person resigning and the registrar keeping the family book or, if no family book has been established, the registrar who certified conclusion of marriage.

Section 6 [Exemption from Fees]

No fees or expenses shall be levied for the official acts of the Local Court.

Section 8 [Entry into Force]

- (1) This act shall enter into force two months after promulgation.
- (2) At the same time, the Act regarding Resignation from Churches and Religious Communities under Public Law (Gesetz betreffend den Austritt aus den Kirchen und Religionsgemeinschaften des öffentlichen Rechts (Prussian Law Collection [PrGS.] NW. p. 63)) of 30 November 1920 shall cease to apply.