



German Accounting Law Modernisation Act (BilMoG) – new commercial accounting rules

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New accounting rules under the German Commercial Code (HGB) – the most significant modification to accounting law for two decades

One of the biggest reforms to German accounting law for two decades has been implemented.

When the German Accounting Law Modernisation Act (Bilanzrechtsmodernisierungsgesetzes, BilMoG) entered into force, the provisions of the German Commercial Code (Handelsgesetzbuch, HGB), which form the basis for accounting practices in Germany, were extensively revised and modified.

The application of the codified accounting rules under BilMoG is mandatory for all annual financial statements in respect of financial years commencing after 31 December 2009.

The legislators objectives in connection with the adoption of BilMoG are as follows:

- Deregulation and cost reduction, particularly for small and medium-sized enterprises
- Improvement of the informativeness of annual financial statements prepared in accordance with German commercial law

The new accounting law and improvements to the informativeness of annual financial statements will help to align commercial law accounting practices with the principles of IFRS.

The legislative amendments have an impact on many of the items in the annual financial statements.

In particular, the following changes ensue from the application of the new accounting law:

- **Option to capitalise development costs**
Costs of production (measured pursuant to section 255, para. 2a in connection with para. 2 of the German Commercial Code (HGB), as amended)

may only be capitalised when development activities commenced in financial years after 31 December 2009. Research costs may not be capitalised.

- **Abolition of provisions for expenses**

Provisions for expenses in respect of expenses in the current or an earlier financial year, which are appropriated on the reporting date but for which the amount and time of incurrence are not known, may not be formed.

The option to form provisions for due maintenance work which is not implemented in the financial year subsequent to the reporting date has been abolished.

- **Valuation of provisions**

In future, provisions for pensions can be calculated using the entry age normal method or the projected unit credit method. In the valuation of provisions, both the discount rate and future developments (wage, price and personnel developments) have to be taken into account. At least one fifteenth of the resulting additions to pension provisions must be recognised for each financial year by 31 December 2024 at the latest.

Provisions with a term of more than one year will have to be discounted in future. The average market interest rate applied is derived from the average of the last seven financial years. The discount rates to be used are published in monthly discount rate tables by the German Bundesbank.

- **Balance sheet oriented method of determining deferred taxes**

Deferred taxes will now be determined according to the balance sheet-oriented temporary concept. The capitalisation option remains in place for the purpose of preparing single entity annual financial statements.

Tax loss carryforward is now also taken into account when calculating deferred taxes (capitalisation is only possible if the loss carryforward is expected to be offset within five years). The amount by which deferred tax assets exceed deferred tax liabilities is subject to a restriction on distribution.

- **Redefinition of minimum production costs**

The minimum production costs under German commercial law have been raised. In the future, they must also include appropriate portions of indirect material, production overhead and production-related deductions for depreciation on fixed assets. Also, it will still be admissible, to optionally recognise general administrative expenses, expenses for voluntary social benefits and retirement benefits as long as they relate to the period of production.

From the range of valuation simplification methods, only LIFO and FIFO will be accepted in future.

- **Cancellation of reverse authoritative principle**

The cancellation of reverse authoritative principle prescribes that no tax-related depreciation may be implemented in the balance sheet and special reserves with equity portion cannot be included.

- **Formation of valuation units**

Valuation units can be set up to compensate opposing changes in values or cash flows deriving from the manifestation of comparable risks. The underlying transactions of assets, liabilities, pending transactions or highly probable expected transactions in financial instruments (hedging transactions) can be grouped together. Financial instruments also include contracts for the purchase or sale of goods, in which each contracting party is entitled to a settlement in cash or in the form of another financial instrument.

- **Disclosure of treasury stock**

Treasury shares will no longer be disclosed as assets in favour of an open deduction at their nominal value from the item of “subscribed capital”. Repurchased treasury shares will be openly deducted from the subscribed capital as a repayment of share capital at their nominal or computational value in the future. The difference between the nominal value (computational value) and acquisition cost of treasury shares must be offset against freely available reserves. Incidental acquisition costs must be accounted for as an expense.

- **New disclosures in the notes to the financial statements and management report**

These include disclosures such as those on related parties and off-balance-sheet transactions, disclosures on the calculation methods applied to pension provisions and the valuation of internally generated intangible assets.

Extensive amendments have also been made with regard to the consolidated annual financial statements and corporate governance.

Due to the vast number of amendments, practically every business enterprise will have to make adjustments for compliance with BilMoG. We can support your company to make the necessary preparations to satisfy the new accounting requirements.

- Analysis and identification of company units affected by the reform.
- Analysis of the impacts on equity and key performance indicators, plus advice on new structuring options.
- Provision of a company-specific implementation plan with drafting, implementation and assessment of the reliability of the necessary processes.
- Revision of accounting guidelines.
- Staff training and education.
- Preparation of BilMoG opening balance sheets.

If you have any further questions, please do not hesitate to contact Martin Thomé or Jens Grimm.

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