



## **Charitable status for individuals?**

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### **Abstract:**

Under current German Law only corporations (Körperschaften) as defined by the Corporate Tax Law (Körperschaftsteuergesetz) can be charitable under the German Tax Code (Abgabenordnung). This recognition of a charitable status is denied to natural persons, i.e. individuals. Unlike corporations, natural persons receive a tax exemption for their charitable activities only within the narrow confines of the so-called Übungsleiterpauschale according to § 3 number 26 of the German Income Tax Act (Einkommensteuergesetz) or other tax exemptions according to § 3 numbers 26a, 26b of the German Income Tax Act. Apart from that, the donation of money is tax-privileged (§ 10b of the Income Tax Act), or individuals have to be employed for their charitable commitment from a non-profit corporation.

The reasons for this limited support of nonprofit active individuals have neither been studied, yet, nor it is explored in more detail, whether and to what extent it can be useful in the future (de lege ferenda) to create a charitable status for individuals and

provide this status in addition to tax exemptions with other elements like social security benefits or incentives to professional development.

These issues will be examined by a research team of the University of Heidelberg comprising Prof. Dr. Stefan Geibel (Charity Law, Law Faculty and CSI), Prof. Dr. Birgit Spinath (Educational Psychology, Faculty of Behavioural and Cultural Studies), Prof. Dr. Helmut Anheier (Civil Society Research, Faculty of Economics and Social Sciences and CSI) und Prof. Dr. Peter Axer (Constitutional and Social Law, Law Faculty) in the Field of Focus 4 (self-regulation and regulation: individuals and organizations). The interdisciplinary perspective that combines the jurisprudential, sociological, economic and psychological approaches is challenge and chance at the same time.

The project team is faced with completely new scientific questions and will gather first systematic and historical arguments for restricting the charitable status to corporations. It will also draw comparisons to other jurisdictions. The leeway in the current German tax law has to be explored, whether, in narrow confines and for certain periods of time, a charitable status for individuals may be fitted into the applicable law. Here, in particular, issues of the principle of equality and of the fairness in taxation, the European Law, the transparency of individual financial circumstances and income, the link with social regulations and possible risks of abuse will play a major role.

The aim of the project is the jurisprudential preparation of steps to solve the aforementioned dilemma, that the legislator, although he is willing to promote the charitable activities of individuals, apparently has currently not the appropriate funding instruments. A further aim of the project is the interdisciplinary discussion of the proposed steps. In this respect, those “adjusting screws” must be identified which come into consideration in order to allow a reform of the German nonprofit law by introducing a certain charitable status for individuals. An integrated system of measures for supporting the charitable activities will be indispensable which can be performed by both corporations and other legal entities, which remains practicable

for the German Fiscal Authorities (Finanzverwaltung), and which nevertheless better takes into account the needs of the Third Sector to find legal certainty and reliable “nutshells” for charitable activities.