Fact Sheet: Taxation in Germany

Provided by:

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Taxation in Germany

If you are planning to move to Germany, or you want to establish a subsidiary company or a branch of your Australian business in Germany, you may have a lot of questions – and certainly some about taxation. This fact sheet will help you get an overview of some important aspects of German taxation.

1. Taxation of Businesses

Will I have to register my business for tax purposes?

If you start a business in Germany – either as an individual entrepreneur, a corporation or a partnership – you will in any case have to register your business for tax purposes with the local tax office (*"Finanzamt"*) and be assigned a tax number ("*Steuernummer"*). The tax number may change, e. g. when you move your business to another place. When you are planning to engage in business relationships with clients or providers outside of Germany, you will also need to apply for a special Value Added Tax identification number ("*Umsatzsteuer-Identifikationsnummer"*).

Will I have to file tax returns for my business?

Corporations, partnerships and individuals running a business have to file annual tax returns for Corporation Tax, Personal Income Tax and Trade Tax. The tax year is the calendar year. Tax returns for Value Added Tax need to be filed monthly, quarterly or annually, depending on the size of the business.

Which German taxes apply to businesses and how will they affect my business?

a. Corporation Tax ("Körperschaftsteuer")

German corporations, and also foreign corporations which have their principal place of management in Germany, are subject to Corporation Tax ("*Körperschaftsteuer"*) on the basis of their worldwide income (unless there is an

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agreement for the elimination of double taxation that excludes income from German taxation). German branches of foreign corporations are subject to Corporation Tax on the basis of their German-source income.
Partnerships, either German or foreign, are not subject to Corporation Tax, but are regarded as transparent entities; therefore only the partners of the partnership are liable either for Corporation Tax or Personal Income Tax in respect of their share of the income generated by the partnership.
Taxable income of corporations is determined by accounting. As a basic rule, expenses related to income may be deducted. Capital gains are ordinary income of the corporation. Dividends received and profits from the sale of shares in German or foreign corporations will be 95% tax exempt, if the respective requirements (e. g. 10% minimum participation) are met.
The tax rate for German Corporation Tax is 15%.
In addition to Corporation Tax, a so-called Solidarity Surcharge ("*Solidaritätszuschlag*") is levied at a rate of 5.5% of the respective Corporation Tax, which results in a combined tax burden of 15.825%.
Dividend distributions made by German corporations to their shareholders are generally subject to a withholding tax ("*Kapitalertragsteuer*") of 25% plus Solidarity Surcharge of 5.5% thereof. The tax withheld is creditable against Corporation Tax or Personal Income Tax of the shareholders. For shareholders residing in countries which have an agreement for the elimination of double taxation with Germany, such as Australia, the withholding tax paid may be reimbursed if certain criteria are met.

b. Trade Tax ("Gewerbesteuer")

Individual entrepreneurs and partnerships are liable for Trade Tax ("*Gewerbesteuer"*) only in respect of their income from trade and business. Corporations are always subject to Trade Tax, regardless of the nature of their income.
Trade Tax is levied by the local municipality at a tax rate determined by the municipality. The average effective tax burden in respect of Trade Tax in Germany is around 14% of the taxable income; it will be at least 7% but will usually not exceed 17%.
There is a tax exempt amount of EUR 24,500 for individual entrepreneurs and partnerships, but not for corporations.
Trade Tax is not a deductible business expense, but for individual entrepreneurs and partners of partnerships Trade Tax can be offset against Personal Income Tax up to certain maximum amounts.

c. Value Added Tax ("Umsatzsteuer")

In Germany, Value Added Tax ("*Umsatzsteuer"*) is levied on goods and services at a general rate of 19%. There is a reduced rate of 7% for certain goods and services, e.g. food and books.
Businesses can offset Value Added Tax that they paid for goods and services they received against the Value Added Tax due for their sale of goods or for their services.
For certain B2B-transactions (e.g. certain construction work, and sales and services to clients in other member states of the EU) the client will be liable for the Value Added Tax (so-called "reverse charge" procedure).

d. PAYG withholding ("Lohnsteuer")

Employers have to withhold Personal Income Tax from the gross salaries paid to their employees on a monthly basis and transfer the amounts withheld to the tax office. The amount withheld does not only depend on the income, but also on other factors like the family situation of the employee. Personal Income Tax withheld by the employer as PAYG withholding ("*Lohnsteuer"*) is treated as a prepayment of the final Personal Income Tax of the employee.
Apart from Personal Income Tax and Solidarity Surcharge, employers also have to withhold Church Tax (if applicable, see below) and social security contributions (public pension system, health and nursing insurance and unemployment insurance).

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2. Taxation of Individuals

I will be moving to Germany – will I have to register for tax purposes?

Every individual moving permanently to Germany has to register with their local registration office (*"Einwohnermeldeamt"*). They will then be automatically assigned a tax identification number ("*Steueridentifikationsnummer"*). The tax identification number will remain unchanged for the lifetime of the individual. It is not only used for correspondence with the tax authorities, but is also needed by employers for PAYG withholding (see above), as well as by banks and insurance companies for certain tax-relevant information that will automatically be transmitted to the tax authorities.
Unless you start a business, there is no need for separate registration with the local tax office.

Will I have to file tax returns as an individual?

Individuals generally have to file annual tax returns for Personal Income Tax, unless they only receive income as an employee and do not want to claim any deductable expenses. The tax year is the calendar year.

What German taxes apply to individuals and how will they affect me?

a. Personal Income Tax ("Einkommensteuer")

Residents of Germany are liable to Personal Income Tax ("*Einkommensteuer"*) on the basis of their worldwide income (unless there is an agreement for the elimination of double taxation that excludes income from German taxation).
German law does not know trusts, so Germany regularly disregards foreign trusts for tax purposes. Typically, the income generated by a foreign trust will be treated as income of the German-resident beneficiaries of the trust, regardless of whether there are payments from the trust to the beneficiaries or not. Depending on the specific organisation of the trust, the income might also be allocated to the trustee or the settlor.
Personal income is taxable when provided for by law, e. g. income from trade and business, income from agriculture and forestry, employee income, income from capital assets, income from rent of real estate and certain other income. Capital gains will generally be taxable, except in certain circumstances such as the sale of a family home. Expenses related to income may generally be deducted.
In addition to income-related expenses, taxable income will also be reduced by certain deductable expenses, e. g. for retirement provisions, health insurance, child care (maximum EUR 4,000 per child) and charitable donations. Church Tax (see below) is also a deductible expense.
Spouses can apply for a joint tax assessment, which will regularly be advantageous if one spouse has a significantly higher income than the other. For every child, there is a tax exempt amount of EUR 3,714 (EUR 7,428 for jointly assessed spouses). A child benefit of EUR 194 per child (higher benefits for third and further children) will be paid out monthly in advance to the family and then be set off in calculating the Personal Income Tax.
The basic tax exempt amount ("*Grundfreibetrag"*) is EUR 9,000 (EUR 18,000 for jointly assessed spouses). Taxable income above this threshold will be taxed at progressive rates between 14% and 42% (the maximum rate applies to taxable income above EUR 54,950 for individuals or EUR 109,900 for jointly assessed spouses). Taxable income above EUR 260,533 (EUR 521,066 for jointly assessed spouses) will be taxed at a rate of 45%.

For income from capital assets (e. g. interest payments and dividends), there is a special tax exempt amount of EUR 801 (EUR 1,602 for jointly assessed spouses) and a special tax rate of 25%; on the other hand, no expenses may be deducted from income from capital assets. Foreign withholding taxes (unless recoverable according to an agreement for the elimination of double taxation) will be credited.
In addition to Personal Income Tax, a so-called Solidarity Surcharge ("*Solidaritätszuschlag"*) is levied at a rate of 5.5% of the relevant Personal Income Tax, so the combined tax burden can be up to 47.475%.

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b. Church Tax ("Kirchensteuer")

For members of certain religious communities (e. g. the Roman-Catholic Church, the Evangelical Church in Germany or Jewish communities) the tax authorities will levy an additional amount known as Church Tax ("*Kirchensteuer*") and transfer that amount to the relevant religious community. Church Tax is levied at a rate of 8% (in the states of Bavaria and Baden-Wuertemberg) or 9% in all other German states of the Personal Income Tax.

c. Wealth Tax ("Vermögensteuer")

Since 1997, Germany no longer levies a Wealth Tax ("*Vermögensteuer"*).

d. Inheritance and Gift Tax ("Erbschaft- und Schenkungssteuer")

People relocating to Germany should bear in mind that the German law of succession will apply to all residents of Germany. As the German law of succession may differ from the Australian law of succession in a number of aspects, there might be a need to make a will or to adjust or replace an existing will.
German Inheritance and Gift Tax ("*Erbschaft- und Schenkungsteuer*") may become due when assets are transferred either by way of a gift or by reason of death. If either the donor, legator or the recipient is a resident of Germany, the transfer will be taxable in Germany, regardless of where the assets are located. If neither the donor, nor the legator, nor the recipient is a resident of Germany, then only assets located in Germany will be taxable.
The assets transferred are subject to tax at their current market value. Recipients of certain business assets (e. g. shares of more than 25% in German Corporations) can choose a special tax relief of 85% or even 100% for the relevant business assets, but will then have to continue the business and comply with certain other requirements for a period of 5 or 7 years. If the business is sold or shut down during that period or if other requirements are no longer met, the tax relief will cease to apply.

There are personal allowances of EUR 500,000 for spouses, EUR 400,000 for children (including stepchildren) and the children of predeceased children, EUR 200,000 for children of living children, EUR 100,000 for other descendants, EUR 100,000 for parents and grandparents (in the case of inheritance only) and EUR 20,000 for all other recipients. In the case of inheritance, there are additional personal allowances ("*Versorgungsfreibetrag*") for spouses and for children under 27 years of age.
The tax rate for the Inheritance and Gift Tax is between 7% and 50%, depending on the relation between the donor/legator and the recipient and depending on the taxable amount of the transfer; e. g. for spouses or children, the maximum tax rate is 30% and applies to taxable transfers of more than EUR 26,000,000.

3. Taxation with respect to real estate

Will I have to pay Real Estate Transfer Tax when acquiring real estate?

If you acquire real estate in Germany, Real Estate Transfer Tax ("*Grunderwerbsteuer"*) will be levied on the purchase price. The tax rate depends on the German State in which the real estate is located, and it currently ranges from 3.5% (Bavaria, Saxony) up to 6.5% (Brandenburg, North Rhine-Westphalia, Saarland, Schleswig-Holstein, Thuringia).
Real Estate Transfer Tax may also be charged if you acquire a (direct or indirect) interest of 95% or more in a company or partnership that owns real estate in Germany. In this case, the Real Estate Transfer Tax will be charged on the market value of the real estate.

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Is there a property tax on real estate in Germany?

Real estate in Germany is subject to local Real Estate Tax ("*Grundsteuer*"). Real Estate Tax is levied on an annual basis by the local municipality at a tax rate determined by the municipality. The Real Estate Tax is currently charged on a special tax value ("*Einheitswert*") of the real estate, which may be significantly below the current market value of the real estate. In a judgment of 10th April 2018, the Federal Constitutional Court ("*Bundesverfassungsgericht*") declared the relevant valuation provisions unconstitutional, ordering that the legislature must enact new provisions by 31st December 2019. Until that date, the unconstitutional provisions may continue to be applied.
If you do not own real estate, but rather rent an office or a home, the landlord will have to pay the Real Estate Tax, but then will allocate it to the tenants.

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