

GERMANY

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CITY

NAME

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A. TAXES PAYABLE

FEDERAL TAXES AND LEVIES

COMPANY TAX: German-resident companies are subject to tax on their worldwide income. Non-resident companies are required to pay tax in various forms on income derived from German sources.

Resident companies are those that are incorporated in Germany or have their place of management and control in Germany.

The corporation tax rate is 25%. In addition, a surcharge is levied at the rate of 5.5% of the corporation tax.

The tax year in Germany is the calendar year. Companies are required to make quarterly prepayments of tax based on the previous year's income. Corporation tax returns should be submitted by 31 May of the following year. An automatic extension of four months is granted for returns prepared by a tax consultant.

TRADE TAX: Trade tax is applied only to business income. (Trade Capital Tax was abolished with effect from 1 January 1998.) All business enterprises operating in Germany are subject to this tax. Trade tax is a deductible expense for both corporation tax purposes and in computing trade tax. The trade tax rate is assessed independently by each municipality. The effective tax rates range from 13.04% to 20.95%.

Individuals may deduct trade tax as a business expense. Alternatively, trade tax can be taken as a block credit against individual income tax. In general, individuals obtain full relief for the trade tax paid.

CAPITAL GAINS TAX: There is no special or separate capital gains tax (for details see below under 'Capital gains and losses').

BRANCH PROFITS TAX: There is no separate branch profits tax in Germany. Trading profits and capital gains of the German branch of a foreign company are calculated and taxed on the same basis as those of a German resident company.

SALES TAX/VALUE ADDED TAX (VAT): This is a tax on the supply of goods and services, other than exempt supplies and services, rendered in Germany by a taxable person.

The tax rates are as follows:

Standard rate	16%
Reduced rate	7%

OTHER TAXES: Other taxes include real estate transfer tax at a rate of 3.5% and insurance tax (excluding life insurance and private medical insurance) at 16%.

B. DETERMINATION OF TAXABLE INCOME

The taxable income of a company is determined by ascertaining assessable income and then subtracting all allowable deductions. Business expenses are generally deductible for tax purposes, although there are some exceptions such as entertainment expenses, which are only 80% deductible. Special rules apply in respect of the categories listed below.

DEPRECIATION: Tangible fixed assets, other than land, are written off over their estimated useful lives at rates prescribed by the tax law or an administrative regulation. Either the straight line or diminishing value method of depreciation can be used. With the exception of buildings, it is possible to change from the diminishing value to the straight line method but not vice-versa. In the case of a long term devaluation of assets, an extraordinary depreciation is allowed. This write down has to be reversed if the value of the asset goes up again. Where an asset costs less than EUR 410 exclusive of VAT, it can be written off immediately.

STOCK/INVENTORY: Inventory includes raw materials, work-in-progress, finished goods and payments on account. Each item of inventory must be valued at acquisition cost or cost of production. Accepted valuation methods include "Last In First Out" (LIFO) and average cost.

CAPITAL GAINS AND LOSSES: In principle, capital gains from business assets are taxed at the ordinary tax rate. Profits on the sale of land and buildings may be reinvested tax free (roll-over relief).

Where the shareholder is a company, capital gains relating to the sale of shares held in an enterprise (German or foreign) are tax-free with effect from 2002. Correspondingly, a write-down of a participation does not have any tax consequences. Neither will losses arising from the sale of such a subsidiary be recognised for tax purposes. A flat rate of 5% is deemed to be a non-deductible business expense irrespective of the actual expenses the company incurred.

Where the shareholder is an individual or a partnership, capital gains arising from the sale of shares held as business assets are taxable, but only 50% of the capital gain is added to the individual's annual gross income. The remainder is tax-free (50% participation exemption). Correspondingly, only 50% of the losses are deductible. With effect from 1 January 2002, capital gains realised by partnerships or individuals are tax free if reinvested in shares within two years (roll-over relief).

Capital gains arising from privately held assets are not taxed unless the assets are sold within one year or, in respect of land and buildings, within ten years.

DIVIDENDS: Dividend income is subject to 20% withholding tax by the resident corporation paying the dividend. The withholding tax rate may be reduced in accordance with tax treaties or EU-regulations.

Where the shareholder is an individual or a partnership, only 50% of the dividend income is added to the individual's annual gross income. The remainder is tax-free (50% participation exemption). Correspondingly, only 50% of the expenses or financing costs directly connected to the dividend are deductible. A resident taxpayer may credit the withholding tax which has been deducted by the corporation against his own individual tax liability. Corporation tax can no longer be credited against the individual tax. The imputation system has been abolished.

Where the shareholder is a corporation, the dividend income is tax-free (100% participation exemption). A flat rate of 5% is deemed to be a non-deductible business expense irrespective of the actual expenses the company incurred. This applies to dividends received from both German and foreign enterprises. There is no minimum shareholding and no minimum holding period.

INTEREST DEDUCTIONS: Interest is deductible to the extent it is due for loans which have been borrowed in order to generate taxable income. Where interest is paid in order to finance a participation, the above-mentioned special provisions concerning business expenses which are directly related to tax-free dividends apply.

Interest on loans granted by a shareholder (holding a nominal interest of 25% or more) or a person closely connected to the shareholder for longer-term periods is deemed to be a hidden profit distribution if the total interest is more than EUR 250k and (1) if the interest is profit-related or (2) if the interest is not profit-related and the debt/equity ratio is more than 1.5:1.

LOSSES: In the year in which they are incurred, losses may, in principle, be deducted without restrictions. Remaining losses may be carried back to the preceding accounting period up to an amount of EUR 511,500 and, if there are still losses, they may be carried forward indefinitely to future years. However, in each year the deduction must not be more EUR 1,000 plus 60% of any remaining profit.

FOREIGN SOURCED INCOME: Foreign sourced income is generally taxable. In addition, Germany has a controlled foreign company (CFC) regime. Its objective is to ensure that profits of German controlled companies are not transferred to, or generated in, low tax jurisdictions. A low tax jurisdiction is deemed to be any country which taxes income at a rate of less than 25%. Where German residents hold more than 50% of the shares or the voting rights of an intermediate corporation with passive income, that income is deemed to be distributed to the German shareholders and taxed at their level, if the intermediate corporation is situated in a low tax jurisdiction. Under certain conditions, a participation of 1% in the foreign intermediate corporation is sufficient to trigger the CFC taxation.

From 2002, profit distributions by corporations and capital gains arising from the sale of these participations are deemed to be active income. Income derived by foreign holding companies is thus effectively exempt from CFC tax.

INVESTMENT ALLOWANCE/INCENTIVES: Investment aids are available in selected areas from local authorities for the improvement of the regional economic structure. Investment grants are provided by the tax authorities for the acquisition of new buildings or depreciable, movable assets in the new Länder.

C. FOREIGN TAX RELIEF

Even in the absence of a tax treaty, foreign tax on income derived by a German resident may be credited against his income or corporation tax liability. The tax relief must not exceed the German tax charged on the same profits. Alternatively, the foreign tax may be deducted from the income of the German resident.

D. CORPORATE GROUPS

Profits and losses of German group companies may be pooled for corporate tax purposes, if the requirements of the so-called 'Organschaft' are met. The controlling company must hold - directly or indirectly - the majority of the shares of the controlled company and there must be a profit and loss pooling agreement between the two companies.

With effect from 1 January 2002, these requirements also apply for trade tax purposes.

E. RELATED PARTY TRANSACTIONS

Intercompany pricing between affiliated companies must be carried out on an arm's length basis. If this is not the case, the income of both companies is adjusted.

With effect from 30 June 2003, the duty to document the way in which a taxpayer arrives at the transfer prices he charges on transactions with foreign closely related persons/enterprises was adopted. The documentation must encompass the nature and contents of the business relationship and the economic and legal basis underlying the arm's length prices.

F. WITHHOLDING TAXES

All dividends, regardless of whether they are paid to a resident or a non-resident, are subject to a 20% withholding tax. Interest is subject to a 30% withholding tax if it is paid to a resident. Interest paid to a non-resident is not liable to withholding tax. Royalties paid to a non-resident are subject to a 25% withholding tax. Certain German tax treaties provide for an exemption or a reduced rate.

G. EXCHANGE CONTROL

There are no exchange control requirements.

H. PERSONAL TAX

Income tax is payable by German resident individuals on their worldwide income. Non-resident individuals are only required to pay tax on German-sourced income. Individuals are deemed resident if they have a residence or their customary place of abode in Germany. The latter is the case if the individual has spent more than 180 days of the relevant year in Germany.

Income tax is payable on assessable income less allowable deductions. Assessable income includes business income, income from agriculture and forestry, income from self-employment, income from employment, certain capital gains, capital investment income and rental and royalty income. Allowable deductions include personal allowances, deductions for business/professional expenses and contributions to specified (insurance) bodies.

Individual taxpayers suffer instalment payments which are withheld from their salaries by their employers. Self-employed individuals and those with non-salary income, pay instalments on a quarterly basis with reference to the income realised in the previous year.

The tax rates effective for single taxpayers are as follows:

Taxable Income (EUR)	Tax Payable (EUR)
Less than 7,665	Nil
7,665-52,151	Progressive rates of between 15% and 42%
More than 52,151	42%

Where the taxpayer is married, the income of the taxpayer is combined with the income of the spouse. Then the tax on 50% of the combined income is doubled correspondingly.

In addition to the personal income tax, a surcharge is levied at the rate of 5.5% of the personal income tax.

Social security contributions are withheld from employees' salaries and wages. The employer and employee each contribute 50% of the total social security contributions.

Members of the Roman Catholic, German Protestant, Lutheran and Jewish churches have to pay church tax. The tax rate amounts to about 8% or 9% of the annual income tax liability and varies according to the district of residence. It is a deductible expense for income tax purposes.

Assets transferred by gift or inheritance are subject to tax. If either the transferor or the recipient is resident in Germany, all transferred assets are taxed wherever situated. If neither party is a German resident, the tax is limited to property located in Germany.

The tax rates and exemptions vary according to the relationship between the transferor and the recipient and the value of the assets. Where children or the spouse are the beneficiaries, the rates range between 7% (where the assets have a value of EUR 52,000 or less) and 30% (where the assets have a value of more than EUR 25,565,000); if the transferor and the beneficiary are unrelated, the rates vary between 17% and 50% respectively. The spouse of the transferor is granted a personal allowance of EUR 307,000 and the children of the transferor are granted an allowance of EUR 205,000.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends (%)	Interest (%)	Royalties (%)
<i>Non-Treaty Countries</i>	20	0	25
<i>Treaty Countries:</i>			
Argentina	15	0	15
Armenia (ex-USSR)	15	0	0
Australia	15	0	10
Austria	15/5/0 (3) (6)	0	0

	Dividends (%)	Interest (%)	Royalties (%)
Azerbaijan (ex-USSR)	15	0	0
Bangladesh	15	0	10
Belgium	15/0 (6)	0	0
Bolivia	10	0	15
Bosnia-Herzegovina (ex-Yugosl.)	15	0	10
Brazil	15	0	25/15 (5)
Bulgaria	15	0	5
Canada	15/5 (3)	0	10/0 (5)
China	10	0	10/7 (5)
Croatia (ex-Yugoslavia)	15	0	10
Cyprus	15/10 (1)	0	0/5 (5)
Czech Republic	15/5 (1)	0	5
Denmark	15/5/0 (3) (6)	0	0
Ecuador	15	0	15
Egypt	15	0	25/15 (5)
Estonia	15/5 (1)	0	10/5 (5)
Finland	15/10/0 (1) (6)	0	5
France	15/5/0 (3) (6)	0	0
Georgia (ex-USSR)	15	0	0
Greece	25/0 (6)	0	0
Hungary	15/5 (1)	0	0
Iceland	15/5 (1)	0	0
India	10	0	10
Indonesia	15/10 (1)	0	15/10/7.5 (5)
Iran	20/15 (1)	0	10
Ireland	10/0 (6)	0	0
Israel	25	0	5/0 (5)
Italy	15/0 (1) (6)	0	5/0 (5)
Ivory Coast	15	0	10
Jamaica	15/10 (1)	0	10
Japan	15 (1)	0	10
Kazakhstan	15/5 (1)	0	10
Kenya	15	0	15
Korea	15/5 (1)	0	10/2 (5)
Kuwait	15/5 (3)	0	10
Kyrgyzstan (ex-USSR)	15	0	0
Latvia	15/5 (1)	0	10/5 (5)
Liberia	15/10 (1)	0	20/10 (5)
Lithuania	15/5 (1)	0	10/5 (5)
Luxembourg	15/10/0 (1) (6)	0	5
Macedonia (ex-Yugoslavia)	15	0	10
Malaysia	15/5 (1)	0	10
Malta	15/5 (3)	0	0
Mauritius	15/5 (1)	0	15
Mexico	15/5 (3)	0	10
Moldavia (ex-USSR)	15	0	0
Mongolia	10/5 (1)	0	10
Morocco	15/5 (1)	0	10

	Dividends (%)	Interest (%)	Royalties (%)
Namibia	15/10 (3)	0	10
Netherlands	15/10/0 (1) (7)	0	0
New Zealand	15	0	10
Norway	15/0 (1)	0	0
Pakistan	15/10 (2)	0	10
Papua New Guinea	15	0	10
Philippines	15/10 (1)	0	15/10 (5)
Poland	15/5 (1)	0	0
Portugal	15/0 (6)	0	10
Romania	15/10 (1)	0	10
Russia	15/5 (3)	0	0
Singapore	15/10 (1)	0	0
Slovak Republic (ex-Czech Rep.)	15/5 (1)	0	5
Slovenia (ex-Yugoslavia)	15	0	10
South Africa	15/7.5 (1)	0	0
Spain	15/10/0 (1) (6)	0	5
Sri Lanka	15	0	10
Sweden	15/0 (3) (6)	0	0
Switzerland	15/0 (2)	0	0
Tadzhikistan (ex-USSR)	15	0	0
Thailand	20/15 (1)	0	15/5 (5)
Trinidad and Tobago	20/10 (1)	0	10/0 (5)
Tunisia	15/10 (1)	0	15/10 (5)
Turkey	20/15 (3)	0	10
Ukraine	10/5 (2)	0	5/0 (5)
United Arab Emirates	15/5 (3)	0	0
United Kingdom	15/0 (6)	0	0
United States	15/5 (3)	0	0
Uruguay	15	0	15/10 (5)
Uzbekistan (ex-USSR)	15/5 (1)	0	5/3 (5)
Venezuela	15/5 (4)	0	5
Vietnam	15/10/5 (4)	0	10/7.5 (5)
White Russia (ex-USSR)	15	0	0
Yugoslavia	15	0	10
Zambia	15/5 (1)	0	10
Zimbabwe	20/10 (1)	0	7.5

NOTES:

1. Lower rate applicable where recipient holds an interest of at least 25%.
2. Lower rate applicable where recipient holds an interest of at least 20%.
3. Lower rate applicable where recipient holds an interest of at least 10%.
4. Lower rates applicable where recipient holds an interest of at least
 - (i) 25% or 70% [Vietnam] or
 - (ii) 15% [Venezuela].
5. The tax rates vary with the nature of the royalty.
6. The dividend is tax-free within the EC where the recipient holds an interest of at least 25% (Parent-/Subsidiary EC-Directive and domestic law).
7. The dividend is tax-free within the EC where the recipient holds an interest of at least 10% (Parent-/Subsidiary EC-Directive and domestic law).