Corporate Taxation

Germany offers a competitive system of corporate taxation. All corporations – including the limited liability company (GmbH), the stock corporation (AG) and German permanent establishments of foreign corporations – are subject to corporate income taxation. Income taxation of corporate companies generally consists of three components:

- Corporate income tax
- Solidarity surcharge
- Trade tax

There is no consistent nationwide tax rate for corporate income taxation due to locally set varying trade tax levels. Corporate income tax rate plus solidarity surcharge are, however, determined nationwide. As a result, the total corporate tax burden can be as low as 22.83 percent in some areas. The German corporate tax average is 29.83 percent. Germany Trade & Invest can support you in identifying attractive locations in Germany. For more detailed information on the taxation of branch offices as permanent establishments of foreign corporations in Germany, please refer to the folder of this publication.

Corporate Income Tax

Corporate income tax (*Körperschaftsteuer*) is levied as a flat nationwide tax at a rate of 15 percent of the taxable corporate income. Taxable income (i.e. annual business profits) forms the tax base for corporate income tax. Under German commercial law, corporate companies' annual profits are calculated and recorded in the annual financial statement. This also forms the basis for determining taxable income. However, German tax law provides different accounting options and income correction rules, meaning that the taxable income usually differs from the annual profit determined in the financial statement under commercial law.

Solidarity Surcharge

The solidarity surcharge (*Solidaritätszuschlag*) is a fixed and flat nationwide component of company taxation. It is added to the corporate income tax and set at a rate of 5.5 percent of the corporate income tax rate (and not 5.5 percent of income). Taken together, the corporate income tax and solidarity surcharge amount to a total taxable rate of 15.83 percent.

Trade Tax

Even though trade tax (*Gewerbesteuer*) is regulated by federal law, it is a municipal tax. The rules for determining the taxable income (business profits plus certain statutory additions and allowances) are the same throughout Germany. Moreover, the trade tax rate is the same for all businesses within one municipality. However, the tax rate applicable in a municipality is individually determined by each municipality. The individual trade tax rate of a specific site is therefore the decisive factor for the overall corporate tax burden. The minimum trade tax rate must be at least seven percent. There is no statutory ceiling of the trade tax rate, but the German average trade tax rate is around 14 percent. As a rule, the trade tax rate tends to be higher in urban than in rural areas. The solidarity surcharge is not levied on trade tax.

Calculating Trade Tax

The individual trade tax amount depends on two factors:

- the multiplier (*Hebesatz*) stipulated individually by every municipality,
- the tax base rate of 3.5 percent (across Germany).

The taxable income is multiplied with the tax base rate resulting in the so-called tax base amount. This tax base amount is then multiplied by the applicable municipal multiplier. The multiplier is set by each municipality. On average, it is around 400 percent but may not total less than 200 percent. There is no upper limit for the municipal multiplier.

Model Calculation – Trade Tax

- A GmbH with an annual taxable income of EUR 1,000,000 is based in city A.
- City A has stipulated a municipal multiplier of 400 percent.
- The tax base amount for the GmbH is 3.5 percent of its annual taxable earnings or EUR 35,000.
- The EUR 35,000 is multiplied by the municipal multiplier of 400 percent, resulting in a total trade tax amount for the GmbH of EUR 140,000.

Taxation of Dividends

Germany provides an extensive network of double taxation agreements to ensure that double taxation in international business relations is ruled out. If a German subsidiary pays out dividends to a foreign parent corporation, generally a withholding tax (*Kapitalertragsteuer*) of 25 percent plus solidarity surchage is due.

In the case of an existing double taxation agreement (DTA) with a foreign country, the withholding tax is usually levied at a significantly lower rate, e.g. 15, 10 or 5 percent. Withholding tax still paid in Germany can be credited against existing foreign tax obligations or the parent company has been exempted from dividend-payable tax in the respective DTA state. Different rules may apply for dividend payments by partnerships.

The double taxation agreement with the USA, for example, even allows a reduction of dividend taxation to zero percent where certain requirements are fulfilled. Moreover, EU law, under certain conditions, allows tax-free transfer of dividends between all EU member states.

Value-added Tax (VAT)

Value-added tax (VAT) is a tax on the exchange of goods and services. Companies are generally obliged to add value-added tax to the prices of their goods or services and to invoice their customers accordingly.

In specific business-to-business transactions, the business client has to transfer the VAT to the tax authority – so-called "reverse charge" procedure (applicable for example to certain types of construction work carried out by subcontractors). The reverse charge procedure is also generally applicable for "intra-community supplies," i.e. the sale of goods or services from an entrepreneur in one EU member state to a commercial customer in another EU member state. In general, the commercial customer has to pay VAT in his or her EU member state in these cases ("intra-community acquisition").

VAT Rate

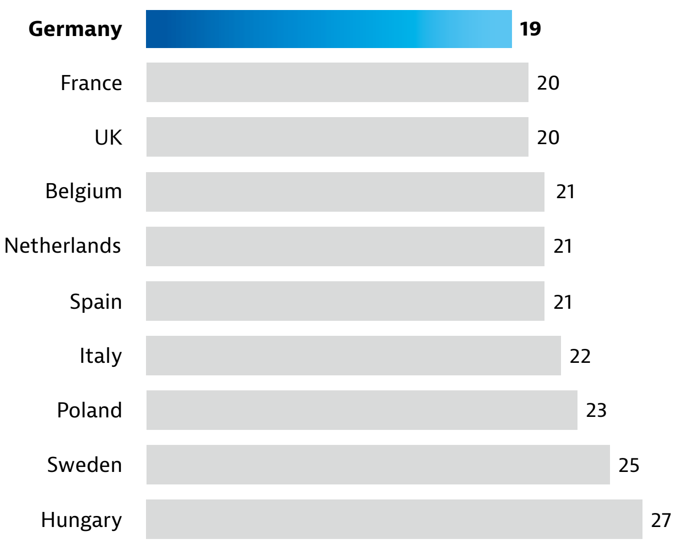
The 19 percent VAT rate in Germany is below the European average. A reduced rate of seven percent applies to certain consumer goods and everyday services (such as food, newspapers, local public transport, and hotel stays). Some services (such as bank and health services or community work) are completely VAT exempt. Value-added tax which is collected has to be paid to the responsible tax office on a monthly, quarterly or annual basis. The exact time frame depends on the company's level of turnover.

Input VAT Deduction

Companies themselves regularly pay VAT when they purchase goods or services. The taxes collected and paid can be balanced out in the VAT return as input VAT deduction (*Vorsteuerabzug*). For companies, value-added tax represents a transitory item only.

Value-added Tax in Selected EU Countries

standard rate in percent



Source: European Commission January 2018

Tax Office Registration

All companies have to register with the local tax authority (*Finanzamt*) in order to be issued with a tax number required for corporate income taxation as well as national German VAT purposes. A tax assessment questionnaire must be completed before a tax number is issued. Where the company intends to deliver/import goods to or from other EU member states, it requires a specific VAT identification number issued by the Federal Central Tax Office. The VAT identification number application can be filed online or even be combined with the application for the regular tax number.