Corporate Income Tax for Corporations

Companies Liable to Corporate Income Tax

Corporate companies, such as the limited liability company (GmbH) or the stock corporation (AG), based in Germany or with an executive board in Germany are liable to corporate income tax on globally generated income. Dividends that have been generated and taxed abroad may be exempt from taxation in Germany or taxes paid in a foreign country can be offset against taxation in Germany.

Corporate companies who are not based in Germany nor have an executive board in Germany are only liable to corporate income tax on income generated inside Germany (e.g. via a permanent establishment, dividends or licenses).

Corporate Income Tax Base

Taxable income (i.e. annual business profit) forms the tax base for corporate income tax. Under German commercial law, corporate company annual profit is calculated according to the accrual basis accounting method. This is recorded in the annual financial statement and 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.

For more information please also refer to our chapter on tax deductions or contact us directly.

- Tax Deductions

Corporate Income Tax Rate

Corporate income tax is levied as a flat nationwide tax at a rate of 15 percent of taxable corporate income.

In addition a solidarity surcharge (Solidaritätszuschlag) is added on top of the corporate income tax. The solidarity surcharge was introduced in 1995 to finance German reunification. The surcharge is 5.5 percent of the 15 percent corporate income tax, creating a total of 0.825 percent of taxable income.

Thus, corporate income tax and solidarity surcharge add up to a total of 15.825 percent.

Taxation of Dividends

If a German subsidiary company distributes profits to its corporate foreign parent company (a dividend payment) then a 25 percent rate of withholding tax (Kapitalertragssteuer) is payable in Germany.

In the event of the existence of a double taxation agreement (DTA) between the Federal Republic of Germany and another country, the rate of withholding tax that is paid can be reimbursed according to the agreements made in the corresponding DTA.

As a rule, dividend payments on the basis of a DTA are taxed at a reduced rate of taxation at levels of just 5, 10 or 15 percent. At a partial level there is also the possibility of an initial exemption from withholding tax.
The withholding tax paid in Germany can also be credited against the tax liability of the parent company which exists abroad or the parent company is made exempt from the taxation in regard to the received dividends. In effect, this means that no double taxation takes place.

As a rule, two fifth of the withholding tax paid can be reimbursed if the creditor of the dividend-paying German corporation is a foreign corporation and if there is no DTA between Germany and the foreign nation.

Within the EU, dividend payments between a corporate domestic subsidiary company and a corporate foreign parent company are tax-free over and above a 10 percent stake.

**Private Stock-Holders**

Profits which are distributed to private stock-holders are liable to a final withholding tax (*Abgeltungssteuer*) of 25 percent plus the solidarity surcharge. The final withholding tax is retained by the debtor of the dividend or the institution managing the deposit (for instance a bank) and then paid to the tax office. However, the application of a DTA may lead to a lower withholding tax if the private stockholder resides in another country.