Personal Income Tax for Partnerships

Companies Liable to Personal Income Tax

Partnerships such as the civil law partnership (GbR), the general commercial partnership (oHG) or the limited partnership (KG) are not separate legal entities but associations of partners, with the partners themselves generally being subject to all rights and obligations. Accordingly, partnerships are not subject to corporate income tax (Körperschaftssteuer) but to personal income tax (Einkommenssteuer), with the individual tax rate applicable to each shareholder.

Personal Income Tax Rates

The personal income tax rate starts at:

- 14 percent for an annual income exceeding the tax-free allowance of EUR 9,408.
- It rises progressively to a maximum personal income tax rate of 42 percent which is applicable to annual income of EUR 57,052 or more.
- A tax rate of 45 percent is levied on annual income of EUR 270,501 or more.

These tax rates also apply for personal income tax for employees. Specific regulations exist for spouses.

Solidarity Surcharge

As with corporate income tax, the solidarity surcharge is also added to personal income tax. Accordingly, the solidarity surcharge is 5.5 percent of the individual personal income tax rate of every partner. If a partner has an individual income tax rate of 30 percent, the combined personal income tax + solidarity surcharge burden on the partner’s share in the profits would add up to 31.65 percent.

Harmonizing Corporation and Partnership Tax Rates

Generally, distributed and retained earnings of partnerships are subject to personal income tax with progressively rising tax rates. In order to reduce the tax burden for partnerships (making it similar to the tax burden of corporations), two options exist for partnerships:

- To avoid a progressively rising personal income tax rate, partnerships can apply for a flat taxation rate of 28.25 percent plus solidarity surcharge on retained earnings - leading to a flat taxation rate of 29.8 percent equaling the tax burden for corporations. (If retained earnings (taxed according to flat taxation) are distributed to partners at a later date, the distributed earnings are, under certain conditions, subject to a subsequent taxation rate of 25 percent.)

- Trade tax payments for both distributed and retained earnings can be offset against personal income tax. Please refer to our chapter on trade tax for more information.

Trade Tax