

## Supporting Foreign Investment Projects – Business Framework in Germany

Christina Schön, Senior Manager Tax & Legal Services,  
Germany Trade & Invest GmbH

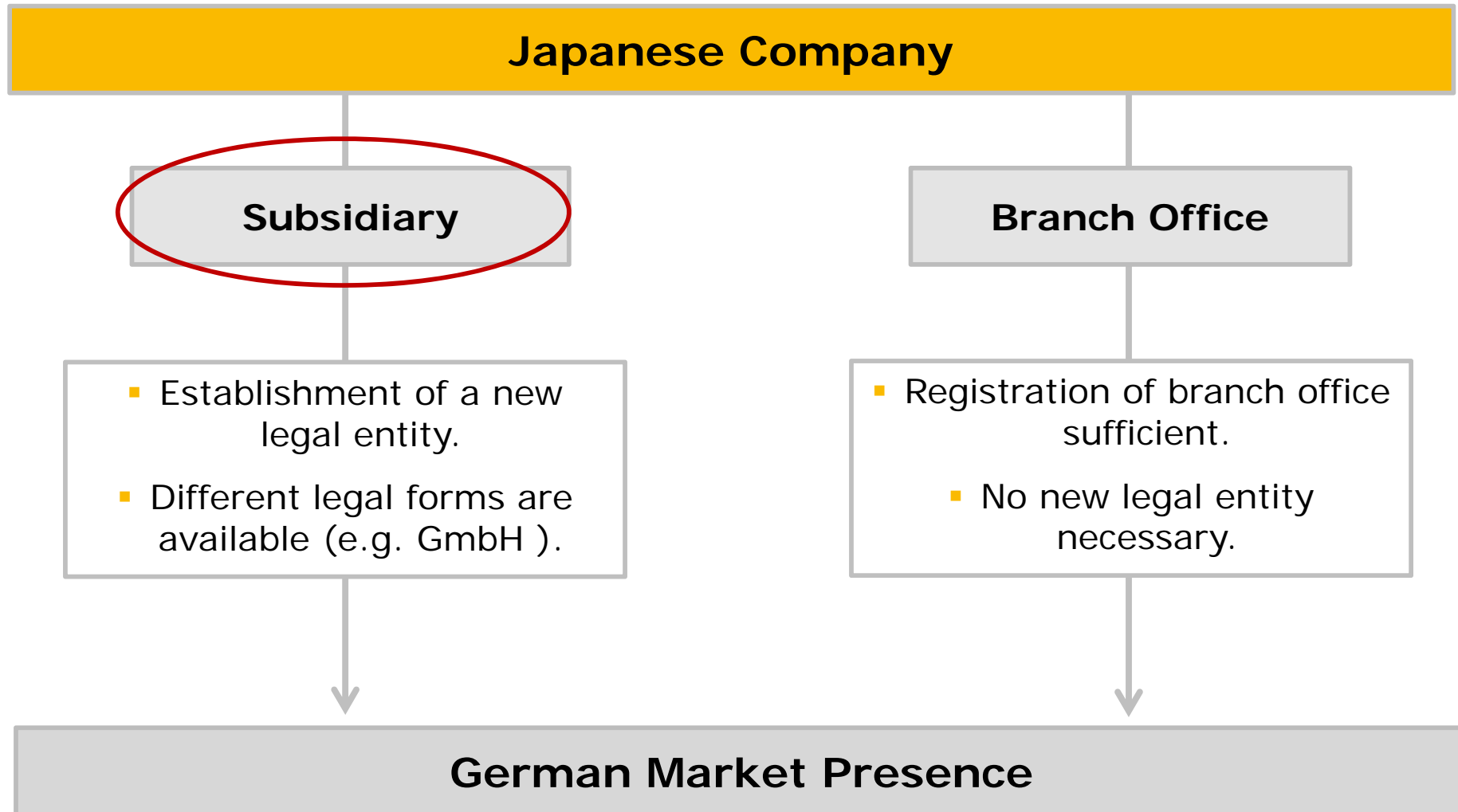
## I. Incorporation

## II. HR Related Questions

## III. Corporate Taxation

## IV. Incentives

There are different ways for a Japanese company to establish a German market presence.

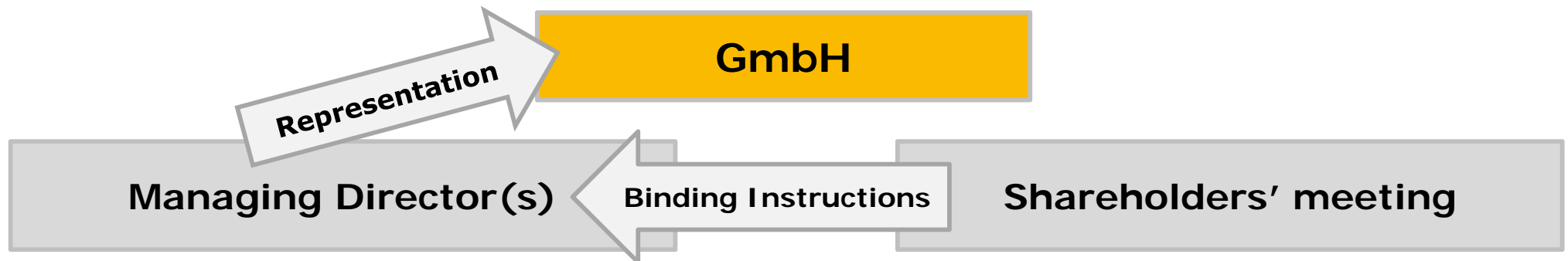


The German private limited liability company (GmbH) is the most widely used legal form for corporations in Germany.

## GmbH:

- Combines high flexibility with relatively few obligations.
- Well-known company form with good reputation not only within Germany.
- Requires a minimum share capital of EUR 25,000.
- The liability of the shareholders is limited to their respective contribution.

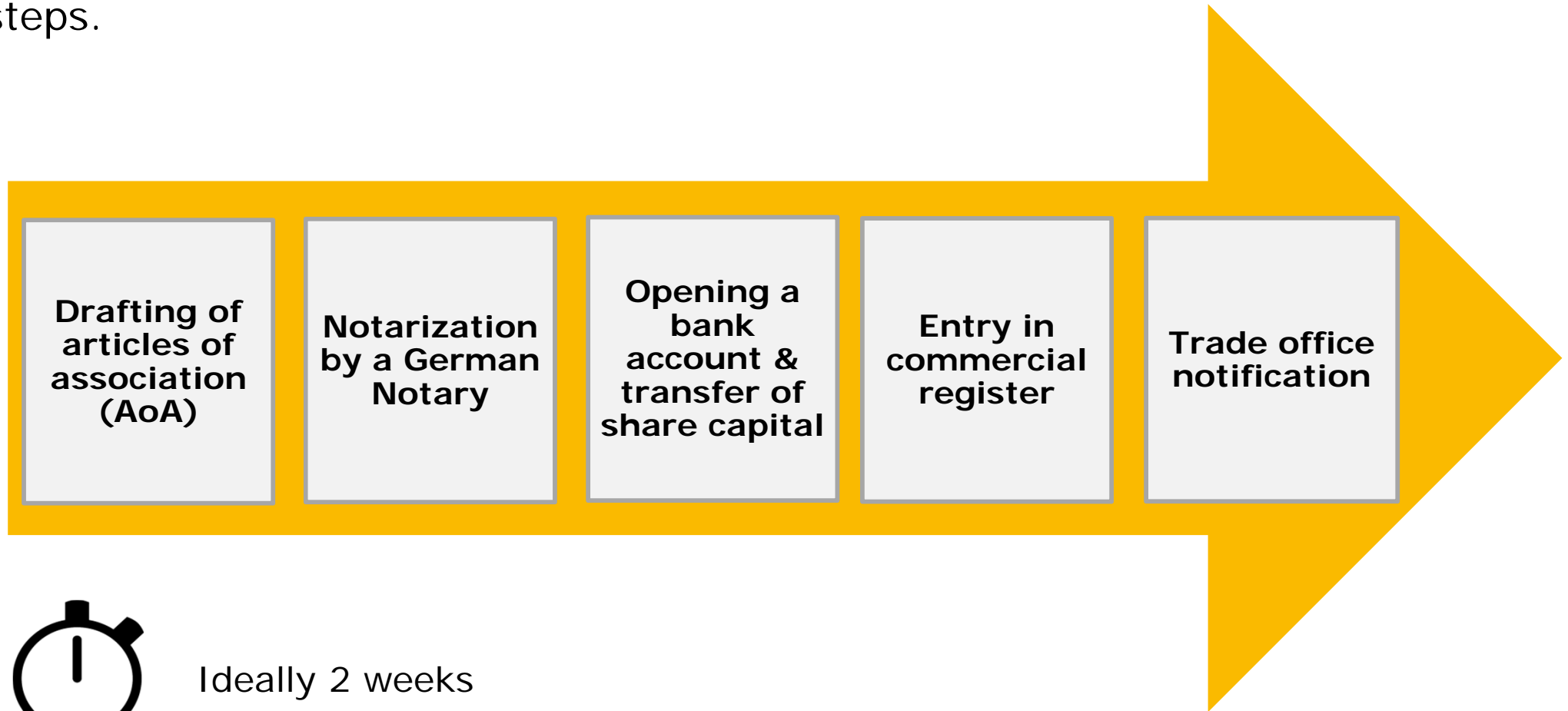
Corporate Structure: The GmbH has two mandatory bodies.



- The managing director(s) represent(s) and manage(s) the GmbH.
- The shareholders' general meeting is sovereign and can issue directions binding the management.
- There are no requirements regarding nationality or domicile of the managing director or the shareholders.
- German business address as well as a local representative are required.

# I. Incorporation

The establishment procedure of a GmbH is straightforward with well defined steps.



Ideally 2 weeks



Establishment costs for a standard GmbH: ~ EUR 800

I. Incorporation

II. HR Related Questions

III. Corporate Taxation

IV. Incentives

In Germany, non-temporary employment is the standard employment form.

### Non-temporary employment contracts:

- Generally include a probationary period (up to six months) during which the contract may be terminated at any time and without any justification.
- Can be terminated by a written letter of termination provided a mandatory notice period has been observed.
- In companies with 10 or less employees, no justified reason is required for the validity of a regular termination.
- In companies with more than 10 employees<sup>1</sup> regular termination requires a justified reason as for instance:
  - personal
  - conduct-related
  - operational

<sup>1</sup> With respect to continuous employment relationships of more than six months in the same company.



Fixed-termed contracts and temporary employment provide flexible solutions for employers and account for around 18 percent of all employment contracts.

### Fixed-term Employment Contracts:

- Expire automatically on a specific date.
- Generally limited to a maximum of two years.
- For newly established companies in Germany a limitation for up to four years is possible .

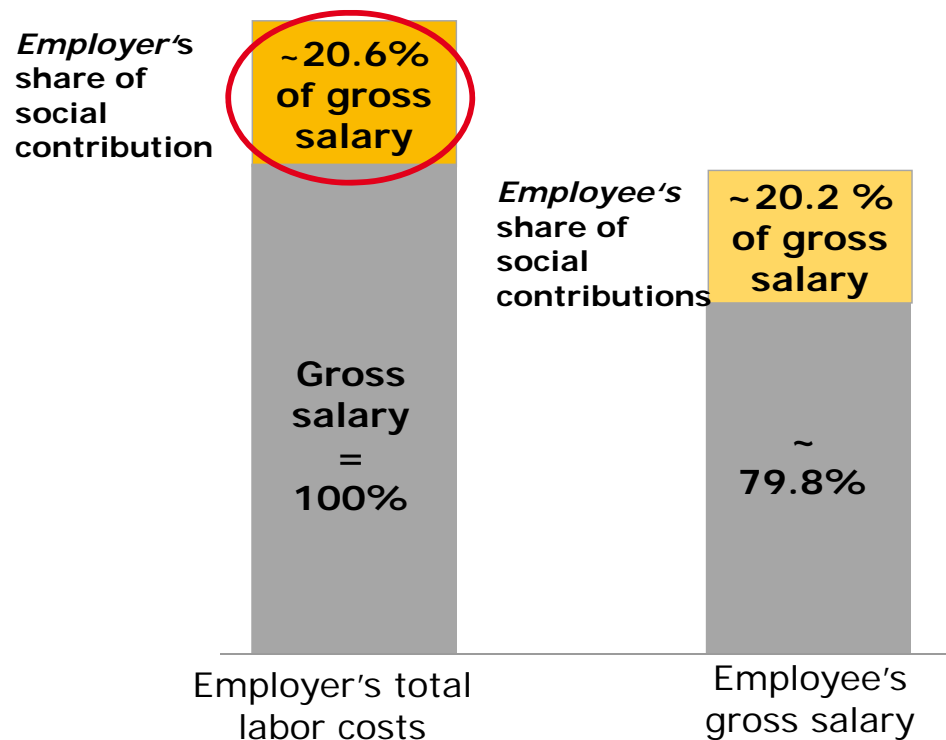
### Temporary Employment<sup>1</sup>:

- An employee *leasing contract* is concluded between a company and a temp agency.
- The employees are legally employed by the temp agency -not by the company.
- Provides companies with extra flexibility in temporary phases.

<sup>1</sup> Statutory hourly minimum wages apply. A minimum wage of EUR 8.80 (1.4.2015-31.5.2016) is generally applicable for temporary employment workers in the *Western* German Federal States. The minimum wage will rise to EUR 9.00 from 1.6.2016 until 31.12.2016. In the *Eastern* German Federal States the minimum wage rates are EUR 8.20 (1.4.2015-31.5.2016) and EUR 8.50 (1.6.2016 -1.12.2016).

## II. HR Related Questions

Germany has a statutory social security system where employees as a rule are compulsory insured.



### German Social Security Branches (% of gross salary)

- Pension Insurance  
18.7 %
- Health Insurance  
14.6 %<sup>2</sup>
- Unemployment Insurance  
3.0 %
- Nursing Care Insurance  
2.35 %<sup>3</sup>
- Accident Insurance  
1.22 %<sup>1</sup>

<sup>1</sup>Average contribution rate levied for 2014 according to DGUV (the umbrella association of German Statutory Accident Insurance).

<sup>2</sup>Health insurance contributions: 14.6% are shared equally between employer and employee. Each Health insurance company individually may impose additional contribution onto employee. Statutorily defined average for additional contribution for 2015: 0.9%

<sup>3</sup>Childless employees pay an extra contribution of 0.25 % on top of their nursing care contributions.

<sup>4</sup> In the federal state Saxony specific regulations apply.

Note: The employer withholds the employee's share of social security contributions from the salary and pays it together with his/her own share to the health insurance.

I. Incorporation

II. HR Related Questions

III. Corporate Taxation

IV. Incentives

### III. Corporate Taxation

Germany does not have a consistent nationwide tax rate for the corporate income taxation – it depends on the locally varying trade tax rate.

Income taxation of corporations consists of three taxation components:

**Corporate Income Tax: 15 %**  
*(Körperschaftsteuer)*

**Solidarity Surcharge: 0.825 %**  
*(Solidaritätszuschlag)*

**Local Trade Tax: Rates vary locally**  
*(Gewerbesteuer)*

**15.825 %**  
(Nationwide  
fixed rate)

**7.0-17.5 %**  
(In general)

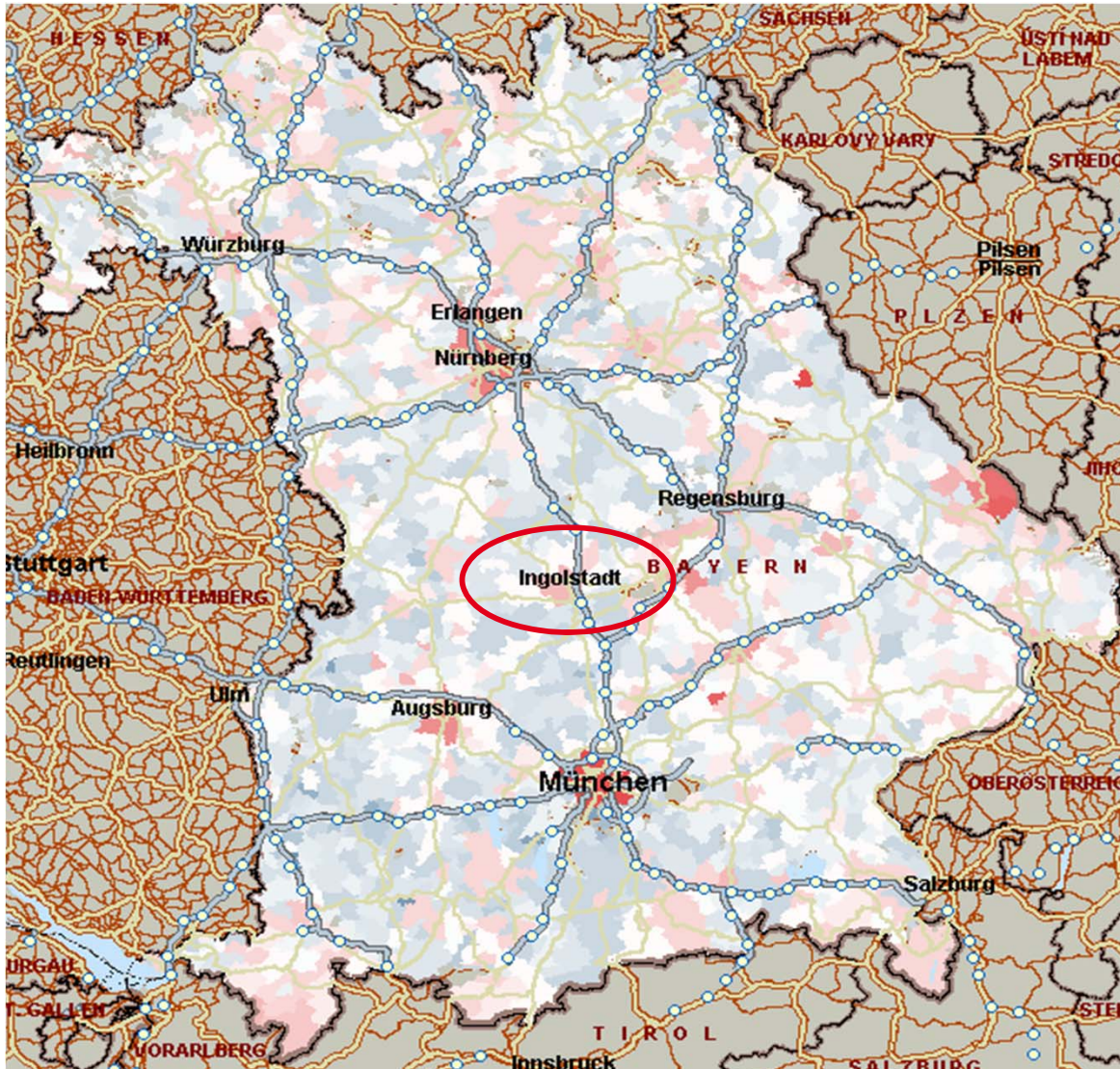
**Overall Corporate  
Income Tax Rate**

▪ **German Average:**  
**29.825 %**

▪ **German Minimum:**  
**22.825 %**

### III. Corporate Taxation

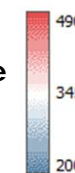
The local determination of trade tax rates leads to a diversified tax landscape within Germany - Bavaria serves as a good example.



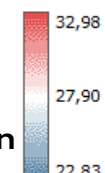
Calculation Example: Ingolstadt	
Taxable Corporate Income (EUR):	1,000,000 EUR
Corporate Income Tax (Tax Rate <b>15%</b> ):	-150,000 EUR
Solidarity Surcharge (5.5% of the Corporate Income Tax: <b>0.825 %</b> )	- 8,250 EUR
Local Trade Tax (3.5% of x municipal multiplier <b>400% ⇒ effective trade tax rate of 14 %</b> )	- 140,000 EUR
Net Income (EUR):	701,750EUR
<b>Overall Tax Burden</b>	<b>29.825%</b>

#### Legend

Municipal Trade Tax Multiplier (in %)



Overall Corporate Tax Burden (in %)



Grey areas: no data available

Municipalities with a trade tax multiplier of more than 490% (also marked red): Thanstein (600%)

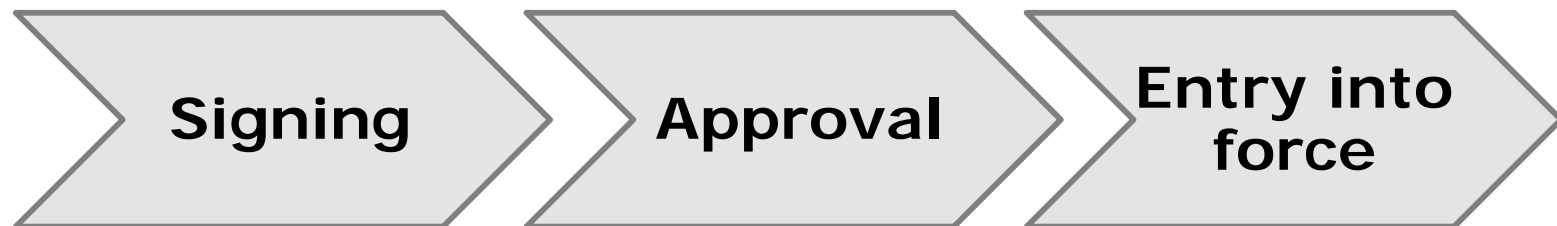
Source: Destatis, Federal Statistical Office 2013, Map: Microsoft MapPoint 2013, © 2014 Germany Trade & Invest GmbH.

In July 2015 the governments of Japan and Germany agreed on a draft for a new Double Taxation Agreement (DTA) – promoting the investment exchange.

### Keypoints:

- Reduction of withholding tax rates for dividends, interests and royalties.
- Introduction of the authorized OECD approach (AOA) regarding profit allocation for permanent establishments.
- New binding arbitration proceedings for future dispute resolutions.
- Expanded cooperation between the tax authorities of both countries.

### Next Steps:



I. Incorporation

II. HR Related Questions

III. Corporate Taxation

IV. Incentives

Germany offers various public funding instruments for different business activities. All funding instruments are generally available and combinable for all funding purposes.

## Incentives in Germany

### Required funding for:

Investments

Working  
Capital

Research &  
Development

Specific  
Purposes

Personnel

Financing available by any of the following public funding instruments  
(combinations of instruments usually possible)

### Public funding instruments:

Grants

Loans

Guarantees






Equity Capital

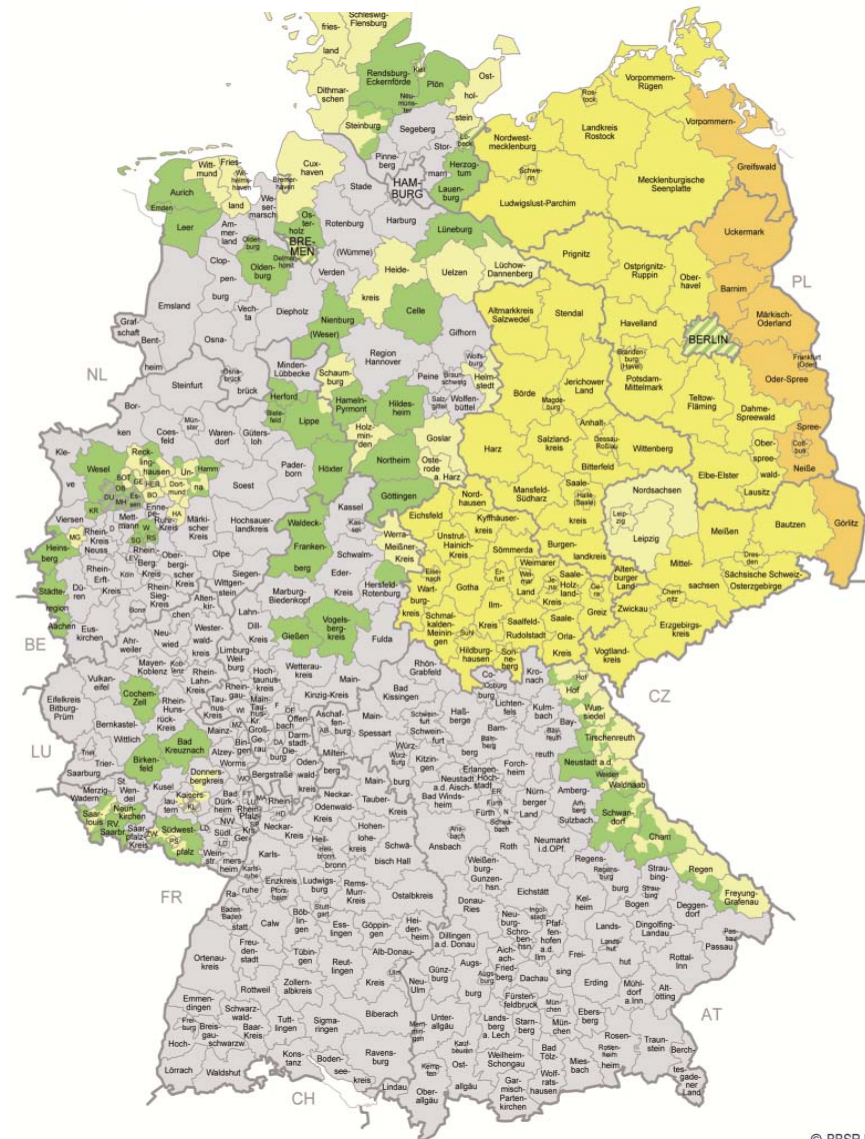
Mezzanine  
Capital



# IV. Incentives

Investment grant intensity depend on region, company size, investment volume and respective state regulation. Eastern Germany offers the highest incentives rates.

Timeframe 01.07.2014- 31.12.2020	Small enterprises	Medium-sized enterprises	Large enterprises
 Predefined C Region	35%	25% <sup>3</sup>	15%
 Border area to Poland <sup>1</sup>	40%	30%	20%
 Non-predefined C Region	30%	20%	10%
 D Region	20%	10%	max. EUR 200,000
 C/D Region	30% / 20%	20% / 10%	max. EUR 200,000



Notes: <sup>1</sup> Until 31 December 2017; aid intensity 2018-2020 as in „Non-predefined C Regions“;

Example – How a financing structure could benefit from public funding instruments.

**Project Details:** Production site for consumer desktop 3D printers in the Federal State of Brandenburg (Location in pre-defined C-Region)

**Employees:** 5 new workplaces

**Equipment:** EUR 2,000,000

**Equity:** EUR 500,000

**Funding gap:  
EUR 1,500,000**

**How to finance EUR 1,500,000 by using public funding sources?**

**Note:** For simplification, working capital is not included. Integration into the debt financing possible.

## Investment Grants

### Investment Grants - (General) Requirements in Brandenburg:

- ✓ Creation of new long-term quality jobs.
- ✓ Subsidized investment goods (equipment) must remain on-site at least 5 years.
- ✓ At least 50% of expected turnover must be generated outside a 50 km radius.



▪ Max incentives level:	Region/Company size	Small
	Predefined C Region	35%
▪ Eligible investment costs		EUR 2,000,000
▪ <b>Investment grants:</b>		<b>EUR 700,000</b>

Still we have an financing gap of EUR 800,000 to fill.

Investment costs	2,000,000 EUR
Equity	500,000 EUR
Investment grants	700,000 EUR
<b>Financing gap</b>	<b>800,000 EUR</b>

### Option: Public Loan

#### KfW Entrepreneurial Loan offers:

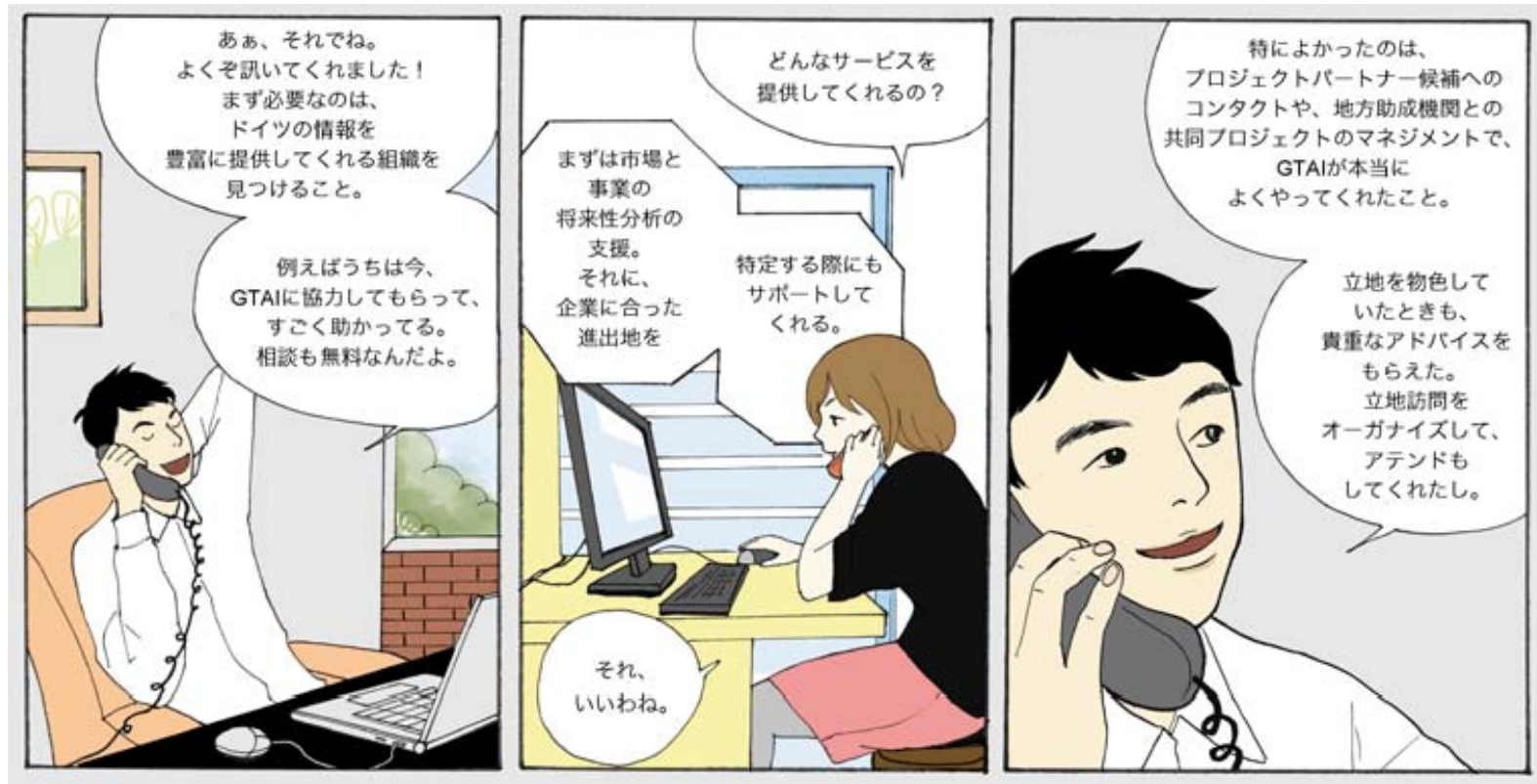
- long term fixed interest rates and loan maturities
- grace periods for the start-up phase
- optional liability waiver of 50 % of credit volume in favor of the commercial bank bearing the default risk.
- application must be submitted to a main commercial bank in Germany before investment start.

Final financing structure of the investment profiting from public funding.

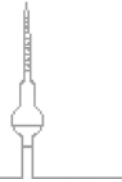
<b>Investment:</b>	<b>2,000,000 EUR</b>
<b>Financing structure:</b>	<b>2,000,000 EUR</b>
Equity:	500,000 EUR
Investment Grants:	700,000 EUR
Public Loan:	800,000 EUR

**Additional Option:  
Strengthening of loan securities by Public Guarantees**

## GTAIのサービス



Berlin



**Ms. Christina Schön LL.M.**  
Senior Manager Tax & Legal Services  
Germany Trade and Invest GmbH  
Tel. +49 30 200 099-509

[christina.schoen@gtai.com](mailto:christina.schoen@gtai.com)  
[www.gtai.com](http://www.gtai.com)

boat.  
as: **a.** A device for  
e or platform from  
ers. [*< obs. laun-*  
c. *lavandier < Lat.*  
-vt. **1. a.** To wash  
the week's linen>

ness n.  
**law** (lô) n. [ME < OE *laga* ]  
society, or custom. **b.** The  
thority or control

**Tax & Legal Services**  
**Ms. Christina Schön**  
Senior Manager  
T. +49 30 200 099-506  
christina.schoen@gtai.com

