



Taxation of corporation

Corporate tax

- Tax payer

Corporations are subject to corporation tax. These are mainly incorporated companies e.g. the public limited company (plc.=AG) and the private limited company (Ltd.=GmbH). Resident taxation (world wide) if place of effective management or statutory seat in Germany. Non-resident taxation of foreign corporations if income derives from German sources (permanent establishment/representative).

- Tax base

The assessment basis for corporation tax is called “taxable income”. In regards to the determination of profits, the CTA refers to provisions of the ITA. Some important features: Tax exempt income: dividends and capital gains from shares in corporation; according to § 8a CIT, interests for debts will be qualified as dividends if the following conditions are met: the investor and the receiver of the capital are both corporations, the investor holds more than 25% of the shares of the receiver, the remuneration for the borrowed capital is more than 250.000 €per year and is not a fixed percent- age of the borrowed capital. If the remuneration is a fixed percentage it should not exceed a safe haven of 1,5 times the proportional equity of the investing shareholder.

- Tax loss

loss carry back: 1 year for 511.500 € forward: no time restriction, unlimited loss compensation up to 1 million euro and 60% of the 1 million €exceeding amount. further restrictions for loss compensation: losses from foreign activities, from pes, write down of shares due to losses of foreign subsidiary

- Rate

from 2001: 25 % definite tax rate, but trade tax is additional tax burden. The system plans an overall tax burden of around 38 %.



Other profit tax

Trade Tax: principles: local tax, concerns income from trade or business (but not independent service, agriculture); no personal consideration (objective ability to pay), tax basis: in general profits acc. to ITA, reductions/additions, e.g. half half of the payments for debts which are economically connected to the purchase of the company are added to the profits acc. to ITA. Tax burden: depends on trade tax factor of the municipality, average burden 12-20 % of profit.

Property tax

There exists a real estate tax. principles: is a pure object tax, no personal considerations or allowances, tax base: real estate in the area of the municipality which imposes the tax. Tax rate: assessed value x tax index number x trade tax factor of the municipality. The value is assessed according to lists which are more than 40 years old =no fair valuation.

Payroll tax

have to be paid on salaries; the employer and the employee have to pay each 21 % as social security contribution. The employer has to withhold the whole contributions (42%). Different contributions for low wage employments.

Social security contributions

Tax at source

Dividends, which are distributed, are regularly taxed at the shareholder level (see taxation of natural persons, tariff). Because of the higher tax burden of individuals this is an incentive to retain profits at the corporation level (25%). 0 % between companies. The withholding taxes for interests, director's fees royalties depend on the tax treaty.

Country specific rules



Taxation of natural persons

Income tax

- Tax payer

Residents: taxation on world wide bases if place of residence or habitual abode in Germany; special residents (extended unlimited tax liability): e.g. diplomats;

Non- residents: taxation on income from domestic sources. In case of business non-residents are taxable if they have a pe in Germany. Non-residents under source taxation suffer with- holding taxes.

- Tax base

seven individual categories of income. Income determined by profits/losses (business income): income from agriculture/forestry, from business/ trading, self employed and capital gains. Income determined by surplus (private income): income from employment, from capital, form rental and from other sources.

The taxable income is made up of the total sum of income. Profits from the individual category of business income is only one component of the taxable income and will not be taxed separately. For this reason, business losses may be offset against profits/surpluses from other categories of income. However, ITA provides for several restrictions.

./ deductions

The net proceeds principle is always applied, that means that operating expenses are allowed as deductions. Furthermore, special expenses and extraordinary and unavoidable expenses can be deducted.

./ tax allowance

Personal allowance: 7426 €(2003, 2004), 7665 €(2005); furthermore child allowances

- Losses

same as corporations; in case of a joint assess- ment of couples, up to 1.023.000 € unlimited carry back of losses and up to 2 million €unlimited carry forward.



- Rate

There is a progressive income tax rate, the average tax burden is increased by growing income. In general, the tariff is structured around the marginal-tax-rate-principle, meaning that only part of the income which falls into the highest stage of progression is taxed at the marginal tax rate. From 2005, the beginning tax rate for an income between 7.665 and 12739 € is 15 % (2004: 17 %) and for an income over 52.152 € 42 % (2004: 47%).

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Wage tax

The wage tax is no tax of its own, it is the normal income tax imposed on income from employment. The wage tax is deducted from taxable salary after deduction of social charges. Income tax tariff. Special allowance of 1.044 € per year.



Social security contributions

- Payer
self-employed persons
- Based on
have to pay social security contributions on a private basis
- Payer
employee pays 21 %, same percentage as employer
- Based on
contributions have to be withheld every month and are based of the monthly gross income.
- Rate
-

Pay-as-you-earn deductions

Only for residents, there is a withholding tax of 30 % on earnings from capital investment. The withholding tax can be offset against income and corporate income tax.

Wealth tax

none



Death duty/gift tax

- Payer

The idea of the German Inheritance Tax is to tax the enrichment of the beneficiary, either given as donation or received mortis causa.

- Tax base

In case of a resident deceased, irrespective of residence of the beneficiary, the foreign assets will be subject to tax as well. Double taxation will be avoided because the tax in the other states on the foreign assets will be credited. In case of a resident beneficiary his worldwide inheritance will be subject to tax in Germany. However, in the case of a resident beneficiary, foreign assets are broader defined than in case of a resident deceased. The consequence is a higher tax credit. The reason for this treatment is that the assets of a domestic beneficiary from a non-resident deceased are already unlimited liable to tax in the other state. In case of a non-resident beneficiary, only domestic real estate, business property and shares in a domestic corporation can be subject to tax.

- Rate

The tariff depends very much on the tax bracket to which the beneficiary belongs due to his relationship to the decedent/donor. Tax bracket I: spouse and children. Parents only in case of acquisition mortis causa. Bracket II: brothers and sisters. Bracket III: all other. When the taxable acquisition is worth 256.00 € the rate varies between 11 % for bracket I and 23 % for III. If the taxable acquisition is more than 25.565.000 € the rate varies between 30 % (bracket I) and 50 % (bracket III).



Tax sales

- Tax Payer

The idea is to tax the ability to pay which is indicated by consumption. For practical reasons, the tax is imposed on the entrepreneur who calculates the tax within his price. The tax burden is part of the price the consumer has to pay. Therefore, the tax is called “indirect tax”.

- Tax base

Total price of good/service. There are also some special consumption taxes on tobacco, beer, sparkling wine, mineral oil, gas, and coffee.

- Rate

reduced tariff of 7% e.g. partly for rents, artistes. Otherwise, normal tariff of 16 %.