Doing Business in Germany

This document describes some of the key commercial and taxation factors that are relevant on setting up a business in Germany.

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Background

Country overview

Situated in the heart of Europe, Germany covers an area of 357,340 square kilometers. The German landscape varies from high mountains in the south, to flat regions with coast areas in the north, and numerous low mountain ranges in between. The German population, about 82,8 million, is predominantly German native speakers, though learning at least one foreign language is common (preferably English). Concerning its political system, Germany is a federal republic consisting of 16 federal states (Bundesländer). Within its capital, Berlin, the main German governmental institutions – Federal Parliament (Bundestag) and Federal Council (Bundesrat) – are located.

Economic overview

Being especially strong in terms of its exports (2016 exports: EUR 1,207 billion, imports EUR 955 billion (both goods and services accumulated)), Germany has become one of the largest exporters in the world and, due to the size of its population, Germany is the largest consumer market in Europe. Like most of the major economies, Germany has been affected by the financial crisis in 2008 and 2009, but the impact was less in Germany than elsewhere. In the meantime, the gross domestic product increased materially from EUR 2,737 billion in 2013 to EUR 2,904 billion in 2014, to EUR 3,026 billion in 2015 and to EUR 3,133 billion in 2016. For 2017, a moderate onward increase is predicted.

As Germany is a part of the European Monetary Union, the Euro has been its official currency since January 1, 1999. After a period of weakness at the beginning, the Euro and the US dollar have almost achieved parity (EUR 1.00 vs USD 1.07 in April 2017). Concerning exchange controls, the Euro is freely convertible into other currencies and there are no restrictions for the money import and export, except for money laundering regulations which now require a declaration of cash of EUR 10,000 or more.

Although many legal regulations exist, specific working conditions, wages and salaries are often agreed in course of a collective bargaining process between trade unions and employers' associations. Compared with most other countries, the influence and power of the German trade unions is extremely high.

Transport infrastructure

With its 12,993 kilometers of motorways and its very extensive railway system, Germany offers good conditions for the exchange of services and goods. In addition, more than 100 international airlines fly to Germany.

Choice of Legal Form

Branch

There are no formal restrictions on operating a branch of a foreign company in Germany. A branch is not a separate legal entity distinct from its parent. Consequently, a branch cannot enter into agreements without either its head office or its parent. The branch which is operating in Germany can sue and be sued in Germany only through its foreign parent which is liable to the full extent of its assets for the liabilities of the branch.

It is possible that a branch may be registered with a German local commercial register as a "registered branch" by filing the foreign incorporation documents if the branch exercises essentially the same activities in Germany as the foreign parent company.

A representative office which is not engaged in trade or business is not regarded as a branch, although for taxation purposes the definition of a permanent establishment in an applicable double tax treaty must be considered. The mere establishment of a branch does not trigger any German taxes.

Subsidiary

A possible option of setting up a subsidiary is the establishment of a stock corporation (Aktiengesellschaft). Nevertheless, by far the most common and flexible legal form for subsidiaries of foreign investors operating in Germany is the "limited liability company" (Gesellschaft mit beschränkter Haftung or GmbH).

The minimum statutorily required capital for the GmbH is EUR 25,000. 25% of the subscribed capital (but at least EUR 12,500) must be paid in at the time of formation (only if the share capital is being contributed in cash).

A GmbH can be established by a sole investor. If the GmbH has only one shareholder at least 25% of the subscribed capital (but a minimum of EUR 12,500) must be paid in. In such case, the payment of the capital contribution into the assets of the newly established GmbH must be objectively recognizable. Capital contributions in kind are possible, but the contributed assets must be fairly valued and the value is subject to examination by the registrar.

The obvious advantage of a GmbH over a branch is that the liability of the shareholder is limited to the amount of the share capital of the GmbH. Like a branch, the mere establishment of a GmbH does not trigger German taxes. The costs of establishing a simple GmbH with a subscribed capital of EUR 25,000 is about EUR 2,500.

At the end of 2008, German legislation changed the provisions governing investments by small corporations. To facilitate doing business throughout minor capitalized legal entities, investors can set up a so-called business company (Unternehmergesellschaft or UG). This new type of a limited liability company mainly follows corporate rules of the GmbH but its required capital starts from EUR 1. Nominal capital has to be paid in, contributions in kind are excluded. The business company should include the wording “Unternehmergesellschaft (haftungsbeschränkt)” or “UG (haftungsbeschränkt)” as a supplement in its firm, to underline the limited liability. The legal entity shall reach sufficient capitalization by retaining a quarter of its profits in the capital reserves. By reaching a nominal capital of Euro 25,000 a business company with restriction may alter its firm to a GmbH.

The statutory seat of all German corporations previously had to be registered in Germany but from 2009 onwards the operating seat can be situated in foreign countries.

Other forms of business organization

In addition to corporations such as the stock corporation and the GmbH, German law permits further forms of business organization. The limited partnership with share capital (Kommanditgesellschaft auf Aktien) is another form of a corporation. Furthermore, a business can be run in the form of a partnership. The most common partnership forms are the general partnership (offene Handelsgesellschaft - OHG) and the limited partnership (Kommanditgesellschaft - KG). Although both types of partnerships play an important role in business life in Germany, foreign investors usually choose the limited partnership. In a KG only the general partner(s) (at least one - e.g. a GmbH then forming a GmbH & Co. KG) is (are) fully liable and the liability of the limited partner(s) (at least one - e.g. an individual) is limited to the subscribed and registered contribution to the partnership.

Audit Requirements

Requirement and thresholds

The German Commercial Code (Handelsgesetzbuch) determines regulations concerning the preparation of the financial statements (balance sheet and profit and loss account) which should be complied with by all business entities regardless of their company form. All corporations must complete the financial statements by notes. Medium sized and large corporations should additionally prepare a management report. Capital market oriented corporations should amend the financial statement by a cash flow statement and a statement of changes in equity (if they are not obliged to prepare a group financial statement). Implementing several EU regulations in 2005, the application of IFRS became part of the German Commercial Code. Thus, the application of IFRS is mandatory for the group financial statements of capital market-oriented companies. In 2009, certain new rules were passed to make the German Commercial Code an equal but more cost-effective alternative to the IFRS (e.g. hedging and cost of goods).

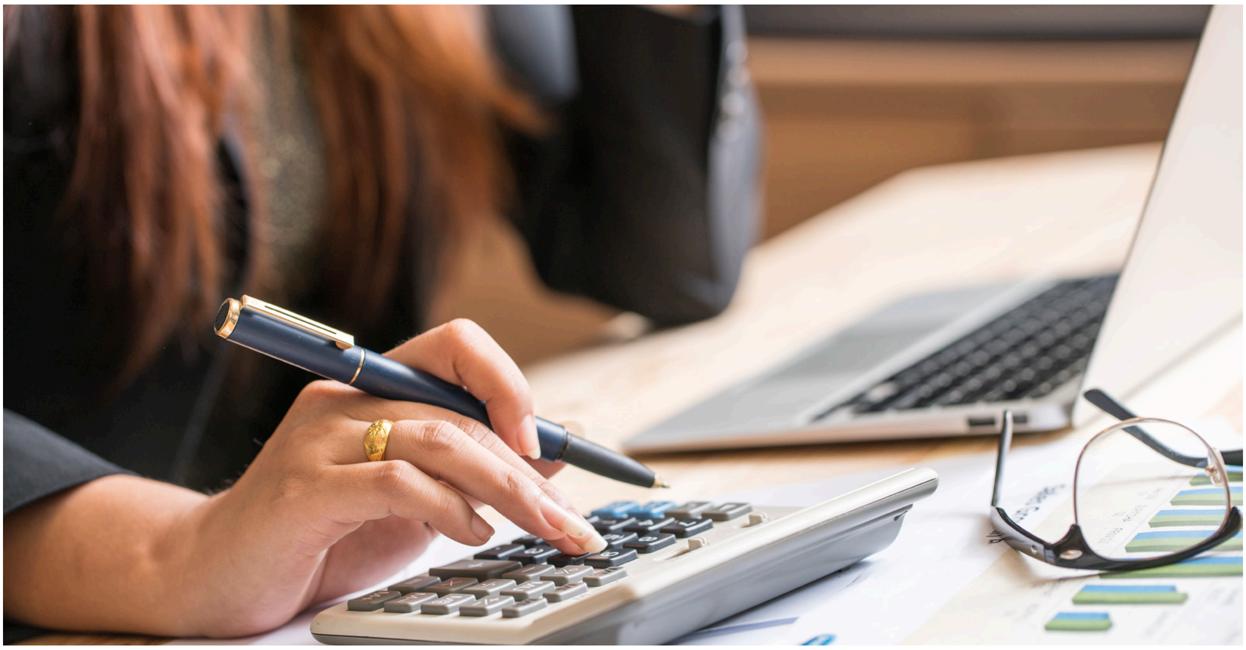
For limited partnerships with a corporation as an unlimited partner (e.g. GmbH & Co. KG), widely the same regulations apply as for incorporated companies. The German Commercial Code defines three size classes: small, medium sized and large companies. The criteria used to determine to which size class the company belongs are balance sheet total, turnover, and the number of employees. In order to allocate a company to a particular size class the company must meet two of the three criteria in two successive years:

	Balance sheet total in Mil EUR	Turnover in Mil EUR	Annual average number of employees
Micro	up to 0.35	up to 0.7	up to 10
Small	up to 6	up to 12	up to 50
Medium size	up to 20	up to 40	up to 250
Large	more than 20	more than 40	more than 250

According to its classification into the three size groups, a company must meet disclosure requirements, e.g. large corporations must disclose the balance sheet, the profit and loss account, the notes as well as the management report, whereas for small corporation simplifications in respect of the financial statements are granted. An audit of the financial statements as well as of the management report is mandatory for medium sized and large companies.

In principle, each sole proprietor is obligated on bookkeeping, but if the turnover is EUR 600,000 or less and the profit keeps below EUR 60,000 in two consecutive business years, sole proprietors are exempted from mandatory bookkeeping.

Taxation



General tax information

The most important taxes for corporations including branches in Germany are: corporate income tax (Körperschaftsteuer), trade tax (Gewerbesteuer) and value added tax (Umsatzsteuer). Property tax (Vermögensteuer) has not been levied since 1997 because of concerns under constitutional law. Trade tax on capital was abolished in 1997 effective from 1998 onwards.

Once a corporation commences its business activities in Germany, it is automatically subject to taxation in Germany. A branch, however, is not automatically subject to taxation upon engaging in activities in Germany due to exemptions under the various double tax treaties to which Germany is a partner. If a branch is not treated as a "permanent establishment" under the provisions of a particular double tax treaty (e.g. Article 5 Sec. 4 of the OECD Model Tax Treaty), it is not subject to German taxation. Likewise, if a German representative office of a foreign corporation merely supplies information to customers in Germany but otherwise does not provide any other service in Germany, the office is not deemed to be a "permanent establishment" and, thus, is not taxable in Germany. If the business enterprise is considered to be a permanent establishment, only that portion of the income of a foreign company which is attributable to its German permanent establishment is subject to income taxes.

Corporate income tax (Körperschaftsteuer)

Corporate income tax in Germany is payable at the rate of 15% of taxable income, regardless of whether the income is distributed or not. The 15% rate also applies to permanent establishments of non-resident companies. In addition, a 5.5% solidarity surcharge is imposed on the corporate income tax assessed.

Trade tax (Gewerbesteuer)

Municipalities impose a trade tax on income. All business enterprises are subject to trade tax, regardless of whether they are deemed as a corporation, permanent establishment or partnership. Trade tax is based on the profits. For purposes of calculating the trade tax basis, the taxable income is subject to certain adjustments, such as a mark-up of 25% on interests on debts, of 5% on leasing rates for mobile goods, of 12.5% for leasing rates on immobile goods and of 6.25% on royalties. A tax allowance of up to EUR 100,000 is granted by law. The effective rate of trade tax on income depends on the multipliers stipulated individually by the various municipalities. The effective tax rate presently ranges between 7.00% and 18.73%.

Certain specified professions, such as physicians, lawyers and architects are exempt from trade tax. However, in these cases, trade tax is not deductible from the assessment basis of corporate tax and income tax.

Comparison of tax burden of a subsidiary and a permanent establishment

The table below compares the tax burden of a subsidiary with the tax burden of a permanent establishment. In the example, the parent company as well as the subsidiary are corporations:

2017	Subsidiary			Permanent Establishment
	EU-Parent Company (PC)[1]	PC in DTT countries[2]	non-EU PC, no DTT	
Profit before Income Tax	100.00	100.00	100.00	100.00
Corporate Income Tax 15%	- 15.00	- 15.00	- 15.00	- 15.00
Solidarity Surcharge 5.5% on Corporate Income Tax	- 0.83	- 0.83	- 0.83	- 0.83
Trade Tax e. g. 15%	- 15.00	- 15.00	- 15.00	- 15.00

2017	Subsidiary			Permanent Establishment
	EU-Parent Company (PC)[1]	PC in DTT countries[2]	non-EU PC, no DTT	
Profit after Tax = Dividend	69.17	69.17	69.17	69.17
Withholding Tax 0%/5%/25%/-	0.00	- 3.46	- 17.29	not applicable[3]
Solidarity Surcharge on Withholding Tax 5.5%	0.00	0.00	- 0.95	0.00
Net Dividend after German Taxes	69.17	65.71	50.93	69.17
Tax Burden (Germany)	30.83	34.29	49.07	30.83

[1]according to EU Parent/Subsidiary Directive

[2]withholding tax is reduced to 5% - 15% according to the respective double tax treaties (DTT), here implicated 5%

[3]no special branch profit tax applicable

Capital Gains

Capital gains received by corporations, except those derived from the sale of shares, do not enjoy preferential tax treatment. Rollover relief, however, is granted if gains derived from disposals of real estate are reinvested in real estate within four years, and if certain other conditions are met.

Capital gains received by corporations derived from sale of shares in German and foreign corporations will be exempt from tax, but five percent of the tax-exempt capital gain is treated as a non-deductible expense.

Losses

For corporate income tax purposes (not trade tax), a loss can be carried back to the previous year. The maximum loss carry back is EUR 1,000,000. Remaining losses can generally be carried forward without a time limit (corporate income and trade tax). They can be charged against profits in the subsequent year, up to a limit of EUR 1,000,000. Profits exceeding this limit can only be shortened by remaining losses by 60%.

Taxation of received dividends

Under the current tax regime, dividends received by German companies in the legal form of a corporation from German and/or foreign corporations will be exempt from corporate income tax, if the shareholding in the corporation is at least 10% at the beginning of the calendar year. Five percent of the tax-exempt dividend income received from (foreign or German) corporations is treated as a non-deductible expense. If the shareholding in the corporation is less than 10% the dividend payment is subject to corporate income tax.

If the shareholding in the distributing corporation is less than 15% at the beginning of the calendar year, the received dividends are fully trade taxable. If the shareholding in the distributing corporation is 15% or more at the beginning of the calendar year, only five percent of the dividend income is trade taxable.

Value added tax (Umsatzsteuer)

Generally, any entrepreneur or company (incorporated or not) is subject to Value Added Tax (VAT). The taxable base is the consideration agreed upon (exclusive VAT) for goods supplied and services rendered. For imported goods, the taxable base is the value at importation including customs duties and expenses as far as non-EU countries are concerned. In computing the final tax liability, the tax paid on purchases of goods and services rendered may be deducted by the entrepreneur or is refunded by the tax authorities, so that, in effect, only the value added is taxed.

The current standard VAT rate is 19%; the reduced VAT rate of 7% applies to specific goods (certain agricultural goods, food, printed products and art objects as listed in the Value-Added Tax Act and its Annex 2). Since the beginning of 2010 the reduced VAT rate of 7% is also applicable on remuneration paid for hotel accommodation.

There are special rules that deal with the taxation of transfer of goods and services within the EU. Special rules and allowances also apply to transactions concerning real estate.

In addition to VAT, an import duty (Zoll) can be levied on the importation of goods into Germany. The duty is paid at the time the goods enter the EU; thereafter the goods can circulate in the EU without further duty.

Group taxation

German tax law provides a tax consolidation for a German tax group (Organschaft). This tax consolidation is applicable for purposes of corporate income/trade tax and VAT. To apply these special rules, certain preconditions must be met.

For corporate income and trade tax purposes, a more than 50% shareholding in a German subsidiary (financial integration) and a profit and loss transfer agreement (Ergebnisabführungsvertrag) is required. The profit and loss transfer agreement is concluded between the group parent company and the subsidiary and must be entered in the trade register. It must be executed for a period of at least five years. Only if these criteria are fulfilled, the subsidiary's net income is attributed to the group parent company for corporate income tax and trade tax purposes. In this case, losses of group companies can be off-set against profits of other group companies.

For VAT purposes, the financial integration, economic integration and integration in organizational matters are required. If these preconditions are met, the controlling company is considered to be the sole VAT subject of the tax group.

Interest barrier rule

As in many other countries, the corporate tax law in Germany provides a thin capitalization rule: the so called "interest barrier rule" with the fiscal aim of limiting the deductibility of extensive interest payments.

Interest payable exceeding interest earned can only be deducted up to 30% of the (tax) EBITDA when the exceeding interest payable is EUR 3,000,000 or higher. If the exceeding interest payable is below EUR 3,000,000, interest is fully deductible. Excess interest payable which could not be deducted according to the rule can be carried forward (comparable to losses). This interest barrier rule is not applicable if the company is not part of a group, or when the equity ratio of the company is not lower than the average group equity-ratio (2% divergence is allowed) – so called "escape-clause". Regarding corporations, the application of the escape-clause is subject to additional regulations.

However, the German Federal Fiscal Court (Bundesfinanzhof) questions if the interest barrier rule is consistent with German constitutional law. Thus, it might bring the case to the German Federal Constitutional Court (Bundesverfassungsgericht). It remains to be seen whether the interest barrier rule continues to be applicable in future.

Change in ownership rule

The regulations concerning the forfeiture of the tax loss carry-forward in case of change in ownership were modified in 2009. First, a distinction must be drawn between the change in ownership up to 25%, from 25% to 50% and of 50% or more. An acquisition of stock less than 25% in a corporation is not considered as harmful and does not trigger a shortfall in the tax loss carry-forwards. A change in ownership of 25% or more within five years causes a respective forfeiture of 25% or more of the loss carry-forward. A change in ownership of 50% or more within five years causes the total forfeiture of the loss carry-forward.

Finally, there is an exception to the restrictions on loss-offset explained above. In case of a harmful change in ownership a loss-offset is possible to the amount of the hidden reserves of the respective company.

A German Fiscal Court brought the case to the German Federal Constitutional Court (Bundesverfassungsgericht) if the forfeiture of the loss carry-forward resulting from the change in ownership is consistent with German constitutional law.

On March 29th, 2017, the German Federal Constitutional Court decided that the regulation regarding the partial forfeiture (change in ownership between 25% and 50%) is not consistent with German constitutional law and asked the German legislation to adjust the rule until 31 December 2018. Also as a reaction to the financial crisis a new recapitalization exemption was introduced in 2009. If an investor clearly showed that the acquisition of a corporation is executed for the purpose of recapitalization, meaning the prevention or deletion of illiquidity and debt overload of the target, and the investor pursues by maintaining the basic business organization, he would have kept the full tax loss carry-forward ("Sanierungsklausel"). Nevertheless, in 2010 the European Commission started an investigation into the Sanierungsklausel and decided in January 2011 that it violates European law. The German Federal Government filed an action of nullity, but failed to file a timely complaint. Thus, no Sanierungsklausel is applicable at the moment.

However, at the end of the year 2016 a new rule was introduced. According to this provision a forfeiture of the loss carry-forward can be avoided if the corporation's business remains unchanged after the change in ownership (so called fortführungsgebundener Verlustvortrag).

Transfer pricing rules

Intercompany charges such as management fees, rentals and royalties charged by a foreign parent to its German subsidiary will be recognized as deductible expenses to the extent that they satisfy the arm's length principle. The German tax authorities release the "administrative principle" to determine whether an arm's length transaction has existed. Arm's length prices are predominantly evaluated under the traditional methods (comparable uncontrolled price method, resale price method, or cost-plus method). Additionally, profit methods (TNMM or profit split method) could be used, if no unrestricted comparable data is available. Inter-company charges which do not meet the arm's length criteria could be treated as hidden profit distribution and are subject to corporate income and trade tax. The determination of transfer prices must be documented carefully and on a regular basis.

Generally, it is highly recommended that the parent company enters into a written agreement prior to providing goods or services to its subsidiary. A written documentation on transfer pricing must be available for each business relation to an affiliate foreign person or company. If the documentation cannot be presented in a course of a tax audit, tax authorities are able to assess a surcharge of 5 – 10% of the amount of the adjusted income asserted. These rules apply to foreign entrepreneurs who maintain a branch in Germany as well as to a German subsidiary of the foreign investor.

From 2008, onwards a new regulation regarding cross border business restructuring has been introduced. Consequently, a shifted business function has to be evaluated and its transfer is subject to tax. Valuation methods that are used in acquisition deals between independent parties should be applied to determine the respective transfer price.

Personal income tax

Resident individuals are subject to income tax (Einkommensteuer) on their worldwide income unless otherwise provided in a double tax treaty.

Income tax is levied at progressive rates:

Basic Personal Allowance in EUR[1]	Minimum Tax Rate	Top Tax Rate
8,652 (2016) / 8,820 (2017) / 9,000 (2018)	14.0%	45.0%

[1]For married couples, the basic personal allowance is twice the amount.

The maximum tax rate is 45% for income exceeding EUR 256,303 (2017)/EUR 260,532 (2018), (wealthy additional tax surcharge). For income below EUR 256,304 (2017)/EUR 260,533 (2018) the maximum tax rate remains at 42%. In addition, a 5.5% solidarity surcharge is imposed on the income tax assessed. Expenses incurred in acquiring and maintaining taxable income may be deducted. Furthermore, special expenses (Sonderausgaben) and exceptional expenditure (außergewöhnliche Belastungen) may lower the taxable income. Spouses are taxed under a splitting of income lowering their progressive tax rates.

Capital gains derived by the sale of certain mobile goods are only taxable if the period between date of purchase and date of sale is one year or less, or for real estate, a period of 10 years or less applies.

Starting from 2009, on all capital earnings of private investors a flat tax rate of 25% is levied (plus 5.5% solidarity surcharge). Capital gains derived from the disposition of shares are taxable irrespective of the holding period. Several other forms of capital earnings such as dividends, interests and earnings from investment funds are subject to the flat tax. No expenses will lower the tax basis, only a standard deduction of EUR 801 p.a. is granted. For married couples, the standard deduction is EUR 1,602. Among other regulations, losses resulting from capital earnings cannot be set-off against other earnings, but can be carried forward to be set-off against future profits resulting from capital earnings. Losses resulting from the sale of shares will be separated and can only be set-off against capital gains resulting from the sale of shares.

Capital gains derived from an investment with a shareholding of 1% or more are taxable as business income. Furthermore, capital earnings earned by a sole proprietor or by a commercial partnership are regarded as business income and are subject to a special treatment (partial income treatment/

"Teileinkünfteverfahren"). Gains in the sale of shares or the receipt of capital earnings are taxed only under 60% of its basis with a progressive tax rate. Therefore, 40% of such income is tax-free.

Capital income earned in corporations is not affected by these provisions.

Non-residents are generally liable on certain German sources of income. A special tax rate may apply. Germany's right of taxation may be limited by double taxation treaties (see 'Tax treaties' section).

Under the German tax regime, partnerships (general partnerships and limited partnerships) are regarded as being transparent. Therefore, the partners are liable to income tax on their individual proportion of the partnership's profit. Profits remaining in the partnership or in the enterprise of a sole trader (retained profits) will be taxed differently at a lower tax rate (28.25%) on application. In the case of an interest in a partnership, this privilege is only applicable if the respective share of profit is exceeding 10% or the profit allocated to this interest is exceeding EUR 10,000. The withdrawal of these retained profits will be taxed at a rate of 25%.

Other significant taxes

Real estate is subject to real estate tax. The tax imposed on the real estate is calculated by multiplying the tax basis with a multiplier which is determined by the municipality and ranges from 2.6% to 6%.

Real estate transfer tax, imposed on sales and transfers of real estate, including buildings, and on certain transactions that are deemed to be equivalent to transfers of real estate. The tax is levied on the purchase price of real estate. The tax rate is stipulated by the various federal states and ranges between 3.5% and 6.5%. From 2010 on, the reorganization within groups of companies will often be exempted from real estate transfer tax. However, any transfer of real estate by a participating entity during a period of five years before or after a change of legal form would trigger taxation.

Tax treaties

To avoid double taxation, Germany holds numerous tax treaties with many foreign countries. In absence of a tax treaty, taxes paid abroad can be credited against German tax liability if the foreign taxes are equivalent to a German tax. Within this tax credit there are two possibilities: offset of the assessed tax or deduction from the tax basis. It is the taxpayer's choice which one to take.

Within the numerous tax treaties between Germany and several foreign countries, the right of taxation is usually granted to either the country of source of income or to the country where the recipient resides. In this case, the other country has generally no right of taxation concerning this source of income ("Freistellungsverfahren"). In other cases, where double taxation cannot be completely avoided, foreign tax credit is allowed in order to relieve the impact of double taxation. In most tax treaties capital income, for example, which is usually taxed in the recipient's resident country, can also be subject to withholding tax in the country of source. This withholding tax can be credited against the German tax duty as a relief.

Germany has concluded tax treaties concerning taxes on profits and assets with 96 countries. Please see appendix for a list of countries (status: January 1st, 2017).

Furthermore, Germany has concluded tax treaties concerning other taxes with several countries. Concerning inheritance tax, the following tax treaties have been concluded:

Denmark, France, Greece, Sweden, Switzerland and United States.

Allowances

Depreciation / Capital Allowances

Germany offers different depreciation schemes. Depreciation is based on either the cost of acquisition or the cost of production. Rates of depreciation are statutorily fixed only for buildings. The Federal Ministry of Finance publishes tables which can be used as guidelines for the calculation of the useful life of most assets. Acceptable methods of depreciation for tangible assets are: the straight-line method and the declining balance method. Examples of straight-line depreciation rates are:

Company buildings	3%
Office equipment	3 - 33%
Plant and machinery	10 - 33%
Motor vehicles	20%
Good will	6.66%

Items valued at under EUR 410 may be set-off in the year of acquisition. Alternatively, items with a value between EUR 150 and EUR 1,000 can be pooled. The depreciation of this pool has to be done over five years following the straight-line method and the pool amount is not reduced when assets are taken out of the pool. Intangible assets can be capitalized only if acquired for consideration.

Employment

Social Security

The German social security system provides that a portion of the employee's gross salary must be withheld for: pension insurance, unemployment insurance, health insurance, supplemental insurance to cover long-term nursing care and workmen's compensation insurance. With the exemption of the workmen's compensation insurance, which is solely borne by the employer, payments are equally shared by the employer and the employee; it is the employer who is ultimately liable for making the social security withdrawal on a monthly basis. The employer's portion is not considered taxable income of the employee. Exemption from German social security may be granted under the EU rules or under the provisions of certain bilateral treaties.

Employment of foreign personnel

Staff may be assigned between the subsidiary and the parent to work within Germany. Non-EU employees must obtain valid visas and working permits. Most double tax treaties concluded by Germany provide that income from employment earned working abroad is taxable in the state of residence if the employee is present in the other state for not more than 183 days during the calendar year/ tax year and further requirements are met (e.g. an employee of a foreign company located in a treaty state who is in Germany for more than 183 days during the calendar year is subject to German income taxation).

Medical

The German compulsory health insurance protects not only the employee but also the whole family. The health insurance benefits cover e.g. hospitalization, surgery, preventive examinations, medical and dental treatment and the prescribed medicine. In many cases the insured person has to make additional payments, because the costs of the medical care are only partly covered by the insurance. Recently there is a trend towards more, and higher, additional payments because of financing problems of the insurance companies.

Wage Taxation

If an individual is a German resident, then all employment income (whether relating to activities carried out in Germany or abroad) is in principle subject to German income taxation (PAYE). Incentives and fringe benefits received by an employee through employment in Germany are generally taxable in the same way as income from employment and subject to wage taxation at source. Employers are liable for withholding the appropriate tax amount from salary.

Withholding Taxes

Dividends

In principle, distributed profits are subject to withholding tax, generally in the amount of 25% (plus 5.5% solidarity surcharge on the withholding tax), payable at the time the distributions are made. This withholding tax is often credited against corporate income taxes payable by the parent company in its country of domicile. Further, under most double tax treaties concluded with Germany, the withholding tax is reduced to 5% if the parent is a corporation and retains a substantial holding of the shares in the subsidiary and to 15% in other cases. Beginning 2009 no withholding tax is imposed on dividends distributed by a German subsidiary to an EU parent company that owns 10% or more of the subsidiary if further requirements are met.

Interests

The general withholding tax on interests is at a rate of 25% (plus 5.5% solidarity surcharge). Since the beginning of 2009 all withholding tax rules are consistently fixed to general 25% which is in line with the new tax rate for capital income (Abgeltungsteuer). The flat tax rate should be applicable to all forms of capital earnings (see 4.12). Anonymous over-the-counter banking is also subject to a 25% withholding tax rate.

Royalties

Royalties and similar payments paid to non-residents and to non-resident corporations are subject to 15% withholding tax (plus 5.5% solidarity surcharge).

Appendix I, Double Taxation Treaties

Albania	France	Liechtenstein	Slovak Republic
Algeria	Georgia	Lithuania	Slovenia
Argentina	Ghana	Luxembourg	South Africa
Armenia	Greece	Macedonia	Spain
Australia	Hungary	Malaysia	Sri Lanka
Austria	Iceland	Malta	Sweden
Azerbaijan	India	Mauritius	Switzerland
Bangladesh	Indonesia	Mexico	Syria
Belarus	Iran	Moldova	Tajikistan
Belgium	Ireland	Montenegro*	Thailand
Bolivia	Israel	Mongolia	Trinidad and Tobago
Bosnia-Herzegovina	Italy	Morocco	Tunisia
Bulgaria	Ivory Coast	Namibia	Turkey
Canada	Jamaica	Netherlands	Turkmenistan
China	Japan	New Zealand	Ukraine
Costa Rica	Jersey	Norway	United Arab Emirates
Croatia	Kazakhstan	Pakistan	United Kingdom
Cyprus	Kenya	Philippines	United States
Czech Republic	Korea	Poland	Uruguay
Denmark	Kosovo**	Portugal	Uzbekistan
Ecuador	Kuwait	Romania	Venezuela
Egypt	Kyrgyzstan	Russia	Vietnam
Estonia	Latvia	Serbia	Zambia
Finland	Liberia	Singapore	Zimbabwe

* Agreement between the Federal Republic of Germany and the Republic of Montenegro on the continuity of the DTT between the Federal Republic of Germany and Yugoslavia respectively the Republic of Serbia and Montenegro.

** Agreement between the Federal Republic of Germany and the Republic of Kosovo on the continuity of the DTT between the Federal Republic of Germany and Yugoslavia.

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