INVEST IN AUSTRIA:

TAX ASPECTS

compiled by Deloitte.

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INVEST IN AUSTRIA

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Layout: CREAKTIV.BIZ e.U., Karin Rosner-Joppich

Contents

Overview

Many attempts have been made in Austria in previous years to make the tax and subsidy framework more attractive and simplify complicated procedural provisions. One of the main priorities has been research promotion, which is currently offered in the form of a ten percent tax credit for research activities that makes Austria an attractive location for innovative companies. Contract research, which is also promoted by a ten percent credit, is now capped at a tax base of one million Euro instead of the previous 100,000 Euro. In addition, the tax reform of 2015 led to the bonuses awarded to research carried out for proprietary purposes and on an on-commission basis‘s being increased to 12% as of 2016. Also being stepped up is supported designed to foster the relocation to Austria of non-Austrian researchers and other scientists.

In addition, a large number of kinds of support are available for start-ups, with these being in the areas of fees, taxes on flows of capital and charges for wages and societal accounts.

In addition, the Austrian Charges Act of 2014 (Abgabenänderungsgesetz 2014) provides further tax concessions for the first ten years after formation of a GmbH. GmbHs can have a reduced level of share capital of only 10,000 Euro during this period, of which only 5,000 Euro must be contributed in cash.

This brochure is intended to provide a basic overview of the Austrian tax system, summarize changes to the law and provide information on possible tax privileges that foreign investors must take into account when deciding where to locate their business. Due to the complexity of the tax law, however, this brochure restricts itself to covering the main points. No claim of comprehensiveness is made for the information. No liability is assumed in this regard.

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I. Corporations

1. Company formation

Austrian company law makes a fundamental distinction between sole proprietorships, partnerships and corporations. Corporations include the AG (*Aktiengesellschaft* – joint stock corporation), SE (Societas Europea) and GmbH (*Gesellschaft mit beschränkter Haftung* – limited liability company).

Since the alteration made in 2014 of the Corporate Financing Reporting Act, corporations are categorized according to their sizes, which are ultra-small, small, medium-sized and large corporations (based on the three criteria of total assets, revenues and number of employees). Assignment to these categories has a number of consequences under commercial law. Examples of them are the provisions governing disclosure of annual financial statements and the requirement to compile the notes to the accounts.

1.1. GmbH formation

As a rule, the statutory minimum amount of share capital is 35,000 Euro, of which half must be contributed in cash. The second half can be contributed in kind. Founding privileges exist for the beginning period of business activity (maximum of ten years). The privilege allows GmbHs to be formed with share capital of only 10,000 Euro, of which only 5,000 Euro must be contributed in cash. This limits the business risk of the shareholders to 10,000 Euro for the first ten years. This also applies in the case of insolvency. The founding privilege ends ex lege after ten years, or earlier in the case of an amendment to the articles of association to this effect. At that time, the statutory minimum contribution of 17,500 Euro must be provided.

The founding privilege is intended to enable, as well, persons possessing comparably low amounts of start-up capital to found a GmbH. This, in turn, allows them to profit from benefits accruing from this form of corporation (for instance: limited liability) – advantages not held by partnerships and one-person companies.

Overview of the steps for formation of a GmbH:

1. ***Articles of association:*** For formation of a GmbH, the articles of association must be prepared **in the form of a notarial instrument**. The notarized articles of association must contain at least the following: company name, registered office, company object, amount of share capital and the capital contribution of each shareholder. To take advantage of the founding privilege, provisions to this effect must be included in the original articles of association, i.e. in the articles of association that are filed for the first time with the company register. In addition, when the founding privilege is used, the amount of the equity contribution and the amount that must be paid in must be specified for each shareholder.

2. ***Appointment of management:*** At least one managing director (and supervisory board members, if required) must be appointed by means of a shareholder resolution if this has not already been done in the articles of association.

3. ***Payment of capital contributions:*** The shareholders must pay in their statutory or agreed capital contributions, and bank confirmation of these payments must be obtained

4. ***A tax-related certificate of non-objection*** must be obtained from the tax authorities.

5. ***Company register application:*** The application for registration in the company register must be certified and must include the following annexes:
   - Articles of association in the form of a notarial instrument
   - Certified shareholder resolution for appointment of management (if management is not already appointed in the articles of association)
   - List of shareholders, providing shareholder names, dates of birth and normal place of residence, signed by management
   - List of managing directors, providing names, dates of birth and normal place of residence
   - Bank confirmation
   - Certified sample signatures of managing directors
   - Certificate of non-objection from the tax authorities for fees and transaction taxes (payment of company tax)

6. ***Business registration:*** The following annexes are required for business registration:
   - Extract from the company register
   - Certificate of good conduct from the land of origin for managing directors under trade law (*Gewerberecht*) and all shareholders with significant influence over management who are not resident in Austria or have been resident in Austria less than five years
   - Declaration of the non-existence of reasons disallowing operation of a business from all individuals with significant influence (managing directors or shareholders with management authority)

The following are also required for ***managing directors under trade law***:

» Passport
» Social security confirmation of registration as an employee, unless the individual is simultaneously a managing director under commercial law (*Handelsrecht*)
» Proof of qualifications (e.g. master examination certificate)
» Declaration by tradelaw managing directors on their employment with the company (form)

7. ***Regional health insurance fund:*** Employees must be registered with the appropriate regional health insurance fund without undue delay before the start of employment. Trade-law managing directors who are employed must be registered with the regional health insurance fund before the business is registered.

8. ***Commercial social insurance :*** Register managing shareholders with the SVA social security fund (Sozialversicherungsanstalt der gewerblichen Wirtschaft) during the first month if they are not already insured under the Austrian General Social Security Act (Allgemeines Sozialversicherungsgesetz – ASVG)

9. ***Tax authorities:*** Notify tax authorities of commercial operations during the first month and apply for a tax identification number

10. ***Community of operation :*** Notify municipality or city of employees for local tax purposes

1.2. Founding of a joint stock company (AG)

The primary difference between the AG and GmbH is that the AG is subject to a greater degree of statutory supervision. For example, a supervisory board must be appointed for an AG and the annual financial statements and management report must be audited by an independent auditor. In addition, the members of the managing board and supervisory board must examine and report on formation of the company. In certain cases, formation must also be examined by a court-appointed formation auditor.

An AG must have at least 70,000 Euro in share capital, which can be raised using par value or no-par value shares. Par value shares must have a par value of at least one euro. No-par value shares do not have a par value. Each share has the same notional interest in the share capital of the company. One important advantage of the AG versus the GmbH is that a notarial instrument is required for transferring GmbH shares, but not for AG shares.

In order to found an AG, the ***articles of association*** must be prepared ***in the form of a notarial instrument*** including at least the following: company name, registered office, company object, amount of share capital, in the case of listed companies an indication of whether bearer or registered shares were issued, an indication of whether the share capital is divided into par value shares or no-par value shares (par value of the individual shares, number of no-par value shares, class of shares), composition of the managing board, and the form in which company publications are made. Appointment of the first supervisory board is performed by the founders and must be notarized. The supervisory board then appoints the managing board.

1.3. The European Company

The SE (Societas Europea) is a special form of joint stock corporation. Creating an SE does not necessarily require formation of a new company. Mergers of joint stock corporations and changes in legal form are also possible. Either the two-tier system (as in Austria, with a supervisory body and a management body) or the single-tier system (as in Anglo-American countries, with one administrative body that combines both functions) can be used when forming an SE. The statutory share capital for this form of company is 120,000 Euro. This legal form has many advantages, in particular great flexibility in terms of location. It is relatively easy to move the registered office of the company to another country in the EU, and uniform procedures are available for mergers, holding company formation and restructuring. These uniform procedures result in lower administrative and legal costs and a uniform legal structure, management and reporting system.

1.4. Subsidies

The ***Austrian Business Start-Up Promotion Act*** (Neugründungsförderungsgesetz) facilitates several aspects of business start-ups and transfers of small and medium-size companies. For example, a variety of stamp duties and court fees for registration in the company register and land register can be waived under certain conditions. If real estate is contributed to a company in return for shares in the company, no real estate transfer tax is levied. Under certain conditions, no capital transaction tax (*Gesellschaftsteuer*) is levied when participation rights (*Gesellschaftsrechte*) are acquired. The act also provides tax concessions for non-cash labor costs.

1.5. Shareholder capital contributions and loans

Shareholder ***capital contributions*** to a company are not included when determining corporate income. They are tax-neutral. This is due to the principle of separation of company and shareholder taxation (*Trennungsprinzip*). Capital contributions belong to the untaxed shareholder sphere and not the income of the entity itself. These contributions are, however, subject to capital transaction tax (*Gesellschaftsteuer*) amounting to 1 percent.

In the case of ***shareholder loans***, a distinction must be made as to whether these are granted at arms-length terms or not. Arms-length loans are recognized as service agreements, and the interest paid by the company is deductible as operating expenses and represents shareholder income. If loans are not provided at arms-length terms, or there is no intention to repay the loan, the interest (or, under certain circumstances, the capital) is not deductible as operating expenses and represents a hidden dividend distribution. Capital transaction tax is normally not levied when a loan is granted. If, however, the loan is not granted at arms-length terms, or no loan interest at all is paid and the loan is therefore classified as a shareholder capital contribution, then the tax consequences of a shareholder capital contribution apply.

1.6. Capital transaction tax

Capital transaction tax (*Gesellschaftsteuer*) is levied on the first-time acquisition of participation rights (*Gesellschaftsrechte*) in an Austrian corporation and other contractual and voluntary contributions to domestic companies that can increase the value of the participation rights. The capital transaction tax rate is one percent and is payable by the corporation. Capital transaction tax is also levied on payments made to a company by the subsidiaries of a domestic corporation, such as additional contributions, follow-up contributions, etc. As a rule, parent company contributions to a sub-subsidiary are not subject to capital transaction tax. Case law does, however, include cases where parent company contributions to sub-subsidiaries were subject to capital transaction tax.

The Austrian Tax Amendment Act of 2014 entirely eliminated the capital transaction tax at the end of 31 December 2015. This means that legal transactions are only subject to capital transaction tax if the tax liability originates before 1 January 2016.

1.7. Other start-up costs

Depending on the scale of the company and articles of association, notary fees may be incurred for preparation of the articles of association. In addition, a filing fee is required for registration in the company register. The founding of a new company is proclaimed solely in the Austrian government‘s edict file (Ediktsdatei), thereby eliminating any related publication costs.

2. Taxation of corporations

Corporations, in particular AGs and GmbHs, are subject to corporation tax. All (domestic and foreign) income of corporations that have their management or registered offices in Austria is taxable.

As a rule, the income is taxable both at the company and shareholder levels.

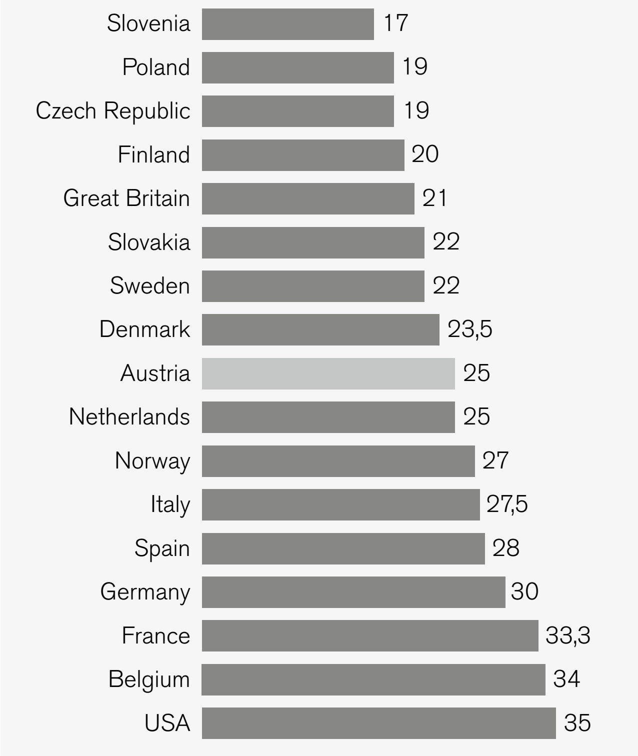
The corporation tax rate is 25 percent and is levied at the company level. A minimum corporation tax equal to five percent of one quarter of the statutory minimum amount of share capital must be paid quarterly (437.50 Euro for GmbHs and 875 Euro for AGs, and 1,500 Euro for SEs). This means that the annual tax payable by AGs is 3,500 Euro, GmbHs 1,750 Euro, and SEs 6,000 Euro. The annual minimum corporation tax increases to 5,452 Euro for financial institutions.

The following relief is provided for a period of ten years for GmbHs established after 30 June 2013: A minimum corporation tax of only 125 Euro is due for each full quarter (500 Euro per year) during the first five years after formation of a GmbH and the start of unlimited tax liability, and 250 Euro per full quarter (1,000 Euro per year) for the next five years.

As a rule, if corporate profits are distributed to shareholders, investment income tax (*Kapitalertragsteuer*) of 25 percent is withheld from the dividend distribution.

In an international comparison, Austria falls in the middle of the distribution of corporation tax rates:

Corporation Tax Rates 2015



Incl. surcharges and local/state taxes

Source: Deloitte Resources, Corporate Tax Rates 2015 (as of: 16 April 2015)

According to the BAK Taxation Index 2013 (published by BAK Basel[1] together with the ZEW[2]), the ***effective average tax burden*** in Austria is ***22.4 percent***. This means that the tax rate is lower than in the United Kingdom (23.8 percent), Italy (24.6 percent), Belgium (24.7 percent), France (32.5 percent) and the United States (41.1 percent).[3]

2.1. Group taxation

The concept of group taxation makes it possible to net the profits and losses of financially affiliated companies, including recognition of cross-border losses. The first step is to calculate the tax profit or loss for each individual member of the group. These profits and losses are then allocated to the companies at the next higher level in the group and, in the end, to the parent company of the group. The profit or loss of the individual companies calculated in accordance with commercial law remains unchanged. No special integration of the individual companies into the parent company is required to form a group. Profit transfer agreements are also not required.

Parent companies may be corporations with unlimited tax liability, trade and industrial cooperatives, financial institutions and mutual insurance companies, EU companies with limited tax liability, and companies comparable to corporations that have their management and registered office in the European Economic Area. They must have an Austrian branch office (a largely independent business unit that is at a different location than the main office and operates under its own management) that is registered in the company register and the interests in the group companies must be attributable to this branch office.

Group members may be corporations with unlimited tax liability, trade and industrial cooperatives and comparable foreign corporations that have their registered offices in a member state of the European Union or a country that offers comprehensive administrative assistance.[4] Foreign group members may only be subordinate group members (investees), i.e. only one “foreign level” may exist. Except in the case of a consortium company, companies may only be members of a single corporate group.

Formation of a corporate group requires a ***financial affiliation*** of more than 50 percent of the share capital or cooperative capital and voting rights. In addition to direct interests, indirect interests are also possible (via a partnership or other group members). Foreign group members can also be used to create an indirect financial affiliation. If a company on its own does not hold an interest of more than 50 percent, it can, under certain conditions, form a consortium with other companies. This requires one interest holder with an interest of at least 40 percent, and each additional minority interest holder with an interest of at least 15 percent.

A corporate group must exist for at least three years, and the financial affiliation with individual group members must exist

1 An economic research and consulting institute

2 Centre for European Economic Research (Zentrum für Europäische Wirtschaftsforschung – ZEW)

3 The calculation was performed using a profitable investment that provided a pre-tax return of 20%. A manufacturing corporation was assumed. Investments were made in a specified combination of assets, using a variety of funding means. Taxes at the national, regional and local levels were included.

4 According to information from the Austrian Ministry of Finance (BMF-010221/0844-VI/8/2015), these are the following countries as of January 1, 2015: all EU member states, Albania, Algeria, Andorra, Anguilla, Argentina, Armenia, Aruba,Australia, Azerbaijan, Bahrain, Barbados, Belize, Bermuda, Bosnia-Herzegovina, Brazil, British Virgin Islands, Cayman Islands, Canada, Colombia, Curaçao, Egypt, Faroe Islands, Georgia, Ghana, Gibraltar, Greenland, Guernsey, Hong Kong, Iceland, Isle of Man, Indonesia, Israel, Japan, Jersey, Liechtenstein, Macedonia, Mexico, Moldova, Monaco, Morocco, Montserrat, New Zealand, Norway, Philippines, Qatar, San Marino, Saudi Arabia, Serbia, Singapore, Sint Maarten, South Africa, South Korea, St. Vincent and the Grenadines, Switzerland, Taipeh, Thailand, Tajikistan, Turks and Caicos Islands, Tunisia, Turkey, Ukraine, USA , Venezuela and Vietnam.

during the entire financial year. In addition, a ***written group application*** must be signed by the parent company and all Austrian entities to be included in the group.

The income of each group member is calculated as a first step in determining the consolidated profit or loss of the group. In the next step, this income is allocated to the entity at the next higher level, netted with its income, and the resulting profit or loss in turn allocated to the group member at the next higher level. In the end, the parent company is assessed the full income of the group. The taxable profit or loss is allocated in full for Austrian group members. In the case of a consortium, the profit or loss is allocated to the consortium members on a pro rata basis. Companies other than the parent company that have ***pre-group losses*** may only offset these losses against their own future profits. In the case of the parent company, loss carryforwards from before the time the group was formed can be included, and can therefore be offset against the profit or loss of group members. Write-downs to going concern value for investments in group members, and losses realized on disposal are not deductible.

In the case of foreign group members, only tax losses proportional to the interest held can be allocated (no allocation of foreign profits). Starting with the 2015 assessment, foreign losses can only be claimed up to a maximum of 75 percent of the total own income of all group members with unlimited tax liability and the group parent in the year the losses are allocated. Any additional losses are added to the loss carryforward of the group parent. Foreign losses must be recalculated to conform to Austrian tax law before they can be claimed. The loss to be stated is limited to the losses calculated under foreign tax law. That is, if application of Austrian law produces a loss, but foreign law does not, then the loss cannot be used. In order to prevent losses from being used twice, the losses are recaptured in Austria if they are used (or could be used) abroad or the foreign group member leaves the group.

A loss of "comparability" (hollowing out) of the foreign group member also leads to recapture. The group member is no longer comparable if it is hollowed out economically and maintained as a shell company. Comparability is based on operating criteria, such as revenue, total assets and number of employees. If the relevant criteria decrease by 75 percent, comparability can no longer be assumed. In practice, this primarily occurs in the case of sales, discontinued operations and demergers.

Goodwill amortization for investments in group members also acted as a special incentive for group formation. The goodwill in question was calculated as the acquisition cost of the investment less the attributable share of the equity calculated according to commercial law and the attributable share of the hidden reserves for non-depreciable fixed assets calculated according to commercial law, up to a maximum of 50 percent of the acquisition cost. The goodwill calculated in this way was amortized over 15 years. Negative goodwill was recognized as an addition to profits.

Due to the Austrian Tax Amendment Act of 2014, however, interests that are acquired after 28 February 2014 are no longer entitled to goodwill amortization. Annual goodwill amortization that has not yet been used for interests acquired before 1 March 2014 can still be claimed. This requires that the tax benefit from the goodwill amortization could have had an effect on the size of the purchase price when the interest was acquired and that the company was included in a group in a financial year that ends in calendar year 2015 at the latest.

Corporations with unlimited tax liability are subject to the ***minimum corporation tax*** in the corporate group. The minimum corporation tax is based on the total income of the corporate group, and is payable if the total income falls below the amount applicable for the parent company and group members subject to the minimum tax. Under certain conditions, the minimum tax of a group member from pre-group times may be offset against other group members or the parent company.

If a group member leaves the corporate group, the group continues to exist. A group member leaving within the three-year period has retroactive effects, and the profits and losses in previous years must be adjusted in order to create the situation that would have existed if the group member had not been part of the group. If the parent company declares that it is leaving the group, the corporate group is to be dissolved and to be retroactively returned to the previous state of taxation.

2.2. Income from participations

In order to avoid multiple taxation, particularly in the case of corporate groups, income from participations is exempt from corporation tax under certain conditions.

Income from participations includes, among other things, profit shares of all kinds based on investments in Austrian corporations and cooperatives held in the form of corporate shares and cooperative shares, and profit shares of all kinds from profit participation rights for Austrian corporations. The exemption is granted regardless of the size of the participation or how long it has been held.

An exemption is also provided for income from foreign participations. Transposition of the ***Parent-Subsidiary Directive*** makes comparable profit shares from corporations in the EU listed in Annex 2 of the Austrian Income Tax Act exempt from corporation tax for the parent company receiving the dividend. The Austrian Tax Amendment Act of 2011 (Abgabenänderungsgesetz 2011) extended the exemption for income from participations to income from participations in third countries, provided the third country offers comprehensive administrative assistance.

In order to prevent abuse, the Austrian Corporation Tax Act (Körperschaftsteuergesetz – KStG) stipulates a change from the exemption method to the imputation method if the foreign income from foreign participations was not previously taxed or only taxed at a low rate (foreign corporation tax rate less than 15 percent). In a further move to preclude non-taxation in both countries, there is no exemption from corporation tax if the profit shares in question are deductible by the foreign entity making the payments.

The tax exemption applies to profit shares of all kinds. Profits from ordinary business operations with the subsidiary, loan interest, gains on disposal of the participation and liquidation proceeds, however, remain taxable.

Notwithstanding the exemption for income from participations, investment income tax is withheld by a domestic distributing company if a participation of less than ten percent is held. The tax can be claimed by means of a deduction or refund.

2.3. International controlling interests

Similar to the exemption for income from participations, profit shares of all kinds from international controlling interests are also exempt. The ***preferential treatment of profits earned by foreign affiliated companies*** requires:

- a parent company (corporation) that falls under § 7(3) of the Austrian Corporation Tax Act
- an interest in a foreign subsidiary that is comparable to an Austrian corporation, or is an EU company as per Annex 2 of the Austrian Income Tax Act
- an interest of ***at least ten percent*** held for an uninterrupted period of at least one year

The international controlling interest takes precedence over the exemption for income from foreign profit shares. This plays a particularly important role in the tax neutrality of the investment and the abuse provisions. The exemption applies not only to current profits, but also to ***gains and losses on disposal*** and other changes in value.

Taxation option: The taxpayer can elect to make the investment subject to taxation. The election must be made in the corporate income tax return made for the year of acquisition, and can only subsequently made or revoked within one month of the submission of the corporate income tax return, and makes gains and losses on disposal and write-downs to going concern value (must be spread over seven years if deductible) subject to taxation. Current profits from the investment remain, however, tax-exempt.

Anti-abuse provisions that cause a change in method also exist for foreign controlling interests. In particular, a change to the imputation method takes place if the foreign company focuses on earning passive income (e.g. interest income, income from the transfer or use of movable tangible or intangible assets, disposal of investments) and the foreign tax rate is significantly lower than in Austria (income tax 15 percent or less).

In order to prevent non-taxation in both countries, the corporation tax exemption is also unavailable if the profit shares are deductible for the foreign entity (e.g. for hybrid funding vehicles).

2.4. Loss carryforward

Operating losses that cannot be offset against positive income in the year they are incurred may be deducted as special expenses in following years. This requires proper accounting in the year the loss was incurred. Losses of up to 75 percent of total income may be deducted each year. If any losses remain, they can be carried forward to following years. This carryforward limit does not apply to certain types of income specified by law (e.g. restructuring gains, gains on the disposal and discontinuation of businesses, business units and partnership interests).

The right to carry losses forward is lost in the case of a "***shell company acquisition***". The characteristics of a "shell company acquisition" are:

- Change in organizational structure (change in management)
- Change in economic structure (economic unit lost)
- Change in shareholder structure (assessed on a case-by-case basis, always assumed for more than 75 percent change)

All three criteria have to be fulfilled. Notwithstanding this, the evaluation must be based on the overall situation. A shell company acquisition can exist even if the individual characteristics are present in different degrees. The right to carry losses forward is not lost if a shell company is acquired for restructuring or rationalisation purposes.

2.5. Reorganization

Reorganization refers to events that change a company's legal entity while leaving its assets generally unchanged. Unlike reorganization that changes the legal form of a company, reorganization by transfer (transfer of assets to a receiving entity) leads to realisation of hidden reserves and therefore to a tax obligation. The Austrian Reorganization Tax Act (Umgründungssteuergesetz) is aimed at permitting reorganization by transfer to occur with ***no additional tax burden***. It requires that basis carryover be performed such that the pending nature of the tax obligation associated with hidden reserves passes over to the legal successor. The act defines six different types of reorganization: merger, transformation, demerger, asset transfer, combination and asset partition.

The EU Merger Directive covers cross-border EU reorganization, but only mergers, demergers and asset transfers (as well as share exchanges) when companies from two or more member states are involved. Basis carryover and non-taxation of hidden reserves also apply in this case.

2.6. Foundations

A foundation is a legal entity formed under civil law that has no owners or members. The foundation uses assets donated by the founder for achieving its object. Any natural person and legal entity can establish a foundation as long as they provide it with 70,000 Euro in capital. A distinction is made between public-interest, private-interest and business foundations.

Public-interest foundations are exempt as far as possible from corporation tax. They are subject only to unlimited corporation tax liability on any income levied through tax deduction. Rental income, lease income and income from participations, on the other hand, are tax-exempt. Distributions received from a public-interest foundation are not taxed as investment income for the beneficiary.

Private-interest foundations are required to make extensive disclosures to the tax authorities (foundation charter, supplementary charters). If they fail to do so, tax conditions benefiting them do not apply and the tax authorities notify the Austrian Money Laundering Unit (Geldwäschemeldestelle). Business foundations receive special tax treatment, as they are also exempt as far as possible from corporation tax. Such foundations are foundations formed under private law that serve solely to fulfil the business object of the founding entrepreneur. Business object foundations (*Unternehmenszweckförderungsstiftung*), employee development foundations (*Arbeitnehmerförderungsstiftung*) and employee share ownership foundations (*Belegschaftsbeteiligungsstiftung*) are business foundations.

Taxation of foundations takes place at three levels:

- Taxation of donations (foundation entrance tax)
- Regular taxation of the foundation
- Exit tax

Donations to a foundation are subject to the ***foundation entrance tax*** (*Stiftungseingangssteuer*). The tax liability applies to the donor (place of residence or normal residence in Austria) and the foundation (registered office or management in Austria) and is normally 2.5 percent. If a private-interest foundation does not fulfil its disclosure requirements, the foundation entrance tax is 25 percent. When unencumbered real estate is contributed to a foundation, the foundation entrance tax is calculated using the fair value and a tax rate of six percent (real estate transfer tax). As of 1 January 2016, the taxes are to be levied on the value of the property. The details of how this value is calculated are availed in 7.1. The tax rate varies between 0.5 percent and 3.5 percent (bracket rate). It is increased by an additional 2.5 percent of the property‘s value (tax equivalent to the foundation entrance tax).

Interim taxation (*Zwischenbesteuerung*) is a special feature of the regular taxation of foundations. It is advance taxation for future distributions to beneficiaries and is credited when future distributions are made, provided that such is subject to capital earnings taxes. Interim taxation applies to the following forms of investment income if they are received by the foundation:

- Domestic and foreign investment income from deposits and securities held by financial institutions
- Income from realized increases in the value of investments
- Income from derivatives

Income from private real estate transfers is also subject to interim taxation.

The interim tax amounts to 25 percent.

Foundations receive a special tax concession for the disposal of equity investments. Hidden reserves that are revealed upon disposal of an investment may be transferred within twelve months to the acquisition cost of a new investment if the new investment represents an equity interest of more than ten percent. A tax-exempt amount can be formed for hidden reserves that are not transferred in this way during the calendar year.

Distributions by private-interest foundations to beneficiaries that are natural persons are generally subject to investment income tax (exit tax). Distributions to entities with unlimited tax liability are not covered by the exemption for income from participations and are therefore also subject to investment income tax. On the other hand, distributions of foundation capital to beneficiaries are tax exempt, since elimination of the inheritance and gift tax means the donor could also give his assets as a gift without taxes being incurred. Distribution amounts that exceed the sum of the net retained profits at the beginning of the financial year, revenue reserves and taxable hidden reserves of the donated assets of the foundation are eligible for this exemption. Foundation distributions do not represent tax-exempt capital distributions until this "threshold value" (*maßgeblicher Wert*) is exceeded.

3. Special aspects of operating expenses

3.1. Depreciation and amortization

Depreciation and amortization are intended to account for the loss in value of an asset over the course of time due to wear and tear. Under tax law, depreciation and amortization must be linear, that is, evenly distributed.

A statutory useful life or depreciation/amortization rate is set for certain assets. In the case of ***buildings***, the depreciation rate is three percent if at least 80 percent of the building is directly used for agricultural, forestry or business operations, 2.5 percent for insurance companies and banks, and two percent in all other cases. As of 1 January 2016, the depreciation rate will come to 1.5 percent for residential buildings; and for the others, a standard rate of 2.5 percent. Any ***goodwill*** that exists for agricultural and forestry operations and businesses is amortized over 15 years. The useful life for passenger cars and station wagons is a minimum of eight years.

Low-value assets, i.e. assets with an acquisition cost of no more than 400 Euro, may be written off in full in the year of acquisition.

3.2. Debt financing costs

Debt financing costs for the ***acquisition of equity interests*** (that are held as business assets) are deductible, provided the interest acquired are not interests in group companies. Entry into force of the Austrian Budget Accompanying Act of 2014 (Budgetbegleitgesetz 2014) introduces a narrow legal interpretation of the term interest. Only interest that is direct consideration paid for borrowed funds is deductible. The costs of procuring funds and ancillary expenses incurred in connection with borrowing are no longer deductible.

The interest for debt financed ***distribution of earnings*** is deductible as operating expenses – regardless of whether there is a direct connection between the borrowing and the distribution. If the distribution is actually a repayment of capital, the debt financing interest may not be deducted.

3.3. Provisions

Provisions are formed for expenses that are not incurred until later periods, but are attributable to the current financial year. Tax law only allows the formation of provisions indicated in the law. Unlike corporate law, neither global provisions or provisions for internal expenses are allowed. Provisions may only be formed in the year in which the economic basis for the liability is created. Provisions that are expected to exist for more than twelve months after the balance sheet date are referred to as long-term provisions. Long-term provisions for liabilities and for impending losses are, as a basic rule, discounted using a discount rate of 3.5 percent over the expected remaining This does not apply to provisions for severance pay, pensions and employee anniversary bonuses.

3.4. Donations

Donations are voluntary gifts and are therefore generally not deductible. An exception exists for donations of business assets ***to eligible organizations for eligible purposes.*** This includes donations related to science and research, those made to universities and museums, and those undertaken for charitable purposes that are being pursued in a country forming part of the EU or the EEA, for the combating of poverty and crises in developing countries, and for the rendering of assistance in cases of catastrophes. Organizations with registered offices in a member state of the European Union or a country that offers comprehensive administrative assistance[5] are treated the same as eligible Austrian organizations if they are comparable to such organizations and have a connection with Austria. The deductibility of donations is limited to ten percent of profits as calculated before applying a profit allowance.

3.5. Taxes

Operating taxes (e.g. property tax, motor vehicle tax) are operating expenses and can therefore be deducted. Corporate income tax and other personal taxes are not deductible. The deductibility of accessory claims (e.g. late filing penalties) is determined based on the deductibility of the underlying tax.

3.6. Interest and royalty payments

As is the case of interest payments, the deduction of royalty payments undertaken within a group is limited in scope. Royalty payments made to bodies forming part of the group are tax deductible only in such cases in which the royalties accruing to

5 See footnote 4, Page 8

the party entitled to use them are subject to a rate of taxation of at least 10 percent.

3.7. Manager salaries

The Austrian Tax Amendment Act of 2014 introduced a limit on operating expense deductions on the remuneration paid to top earners. Under this legislation, expenses or outlays paid as remuneration for work or services are no longer considered tax deductible operating expenses above and beyond 500,000 Euro per person per financial year.

4. Special international aspects

4.1. Double taxation conventions and deduction at source

In order to avoid the same income from being taxed in two or more countries, Austria has concluded ***double taxation conventions*** with many countries modelled on the OECD Model Convention. These conventions determine which contracting country has the right to tax certain income. If one of these distributive rules (Art. 6 to 22) does not give either country the sole right of taxation, but instead allows the possibility of taxation in both contracting countries, the contracting countries mutually stipulate that the applicable country of residence must avoid the taxpayer's being subject to double taxation. In such cases, the contracting countries mutually agree on which ***tax relief method*** shall be applied, namely the credit method or exemption method. The credit method is primarily used for dividends and interest payments, since most double taxation conventions provide the right to deduction of tax at source.

In addition, since transposition of the EU Parent-Subsidiary Directive, dividend distributions between corporations have been exempt from ***deduction at source*** when an interest of ten percent or more is held, and when the term of retention of one year has been fulfilled. In addition, payments of interest and royalties between affiliated companies in the EU have been exempt from deduction at source since 1 January 2004 if a direct interest of 25 percent or more is held.

When the ***credit method*** is used, the income from the source country is included in the tax base in the country of residence, and the foreign taxes paid are credited against the domestic tax burden. In most cases, the law provides for a statutory "maximum tax credit", i.e. foreign taxes can only be credited against domestic taxes up to a certain maximum limit, resulting in the foreign income being taxed at no less than the Austrian tax rate. The credit method is mainly used for dividends and interest payments when the source country has the right to deduction at source.

When the ***exemption method*** is used, on the other hand, the foreign income is exempt from taxation in the country of residence in order to avoid double taxation. This method is often used together with "exemption with progression", i.e. foreign income is only used to calculate the tax rate, but not the tax base. Exemption with progression is only relevant for natural persons, since the constant corporation tax rate of 25 percent means that exemption with progression would not increase the tax rate for corporations.

The following table shows the countries which have active double taxation conventions with Austria and the withholding tax rates applicable for dividends, interest and royalties:

Country	*Equity interest*	*Dividends*[1]	*Interest*[1]	*Royalties*[1]
Albania	25	5/15	5	5
Algeria	10	5/15	0/10[2]	10
Armenia	10	5/15	0/10[3]	5
Australia	-	15	10	10
Azerbaijan	25	5/10/15[4]	10	5/10[5]
Bahrain	-	0	0	0
Barbados	10	5/15	0	0
Belarus	25	5/15	5	5
Belgium *	-	15	15[6]	0/10+
Belize	25	5/15	0	0
Bosnia and Herzegovina	25	5/10	0/5[7]	5
Brazil	-	15	0/15	10/15/25[8]
Bulgaria *	-	0/5[9]	0/5	5
Canada	10	5/15	10	0/10[10]

Country	*Equity interest*	*Dividends*[1]	*Interest*[1]	*Royalties*[1]
China	25	7/10	10	10[11]
Croatia *	10	0/15	5	0
Cuba	25	5/15	10	5
Cyprus *	-	10	0	0
Czech Republic *	10	0/10	0	5[12]
Denmark *	10	0/15	0	0
Egypt	-	10	0	0
Estonia *	25	5/15	0/10[13]	5/10[14]
Finland *	10	0/10	0	5
France *	10	0/15	0	0
Georgia	50/10	0/5/10[15]	0	0
Germany *	10	5/15	0	0
Great Britain *	25	5/15	0	0/10+
Greece *	25	5/15	8	7
Hong Kong	10	0/10	0	3
Hungary *	-	10	0	0
India	-	10	10	10
Indonesia	25	10/15	10	10
Iran	25	5/10	0/5	5
Ireland *	-	10	0	0/10+
Israel	-	25	15	0/10[16]
Italy *	-	15	10	0/10+
Japan	50	10/20	10	10
Kazakhstan	10	5/15	0/10[17]	10
Korea	25	5/15	0/10[18]	2/10[19]
Kuwait	-	0	0	10
Kyrgyzstan	25	5/15	0/10	10
Latvia *	25	5/10	0/10[20]	5/10[21]
Liechtenstein	10	0/15	0	5/10[22]
Lithuania *	25	5/15	0/10[23]	5/10[24]
Luxembourg *	25	5/15	0	0/10+
Macedonia	10	0/15	0	0
Malaysia	25	5/10	15	10/15[25]
Malta *	-	15	5	0/10[26]
Mexico	10	5/10	0/10[27]	10
Moldavia	25	5/15	5	5
Mongolia	10	5/10	0/10	5/10[28]
Morocco	25	5/10	10	10
Nepal	25/10	5/10/15	0/10/15[29]	15
Netherlands *	25	5/15	0	0/10+
New Zealand	-	15	10	10
Norway	-	0/15[30]	0	0
Pakistan	20	10/15	15	10
Philippines	10	10/25	15	15
Poland *	10	5/15	0/5[31]	5
Portugal *	-	15	10	5/10+
Qatar	-	0	0	5
Romania *	25	0/5	0/3[32]	3

Country	Equity interest	Dividends[1]	Interest[1]	Royalties[1]
Russia	10	5/15[33]	0	0
San Marino	10	0/15	0	0
Saudi Arabia	-	5	0/5[34]	10
Serbia	25	5/15	10	5/10[35]
Singapore	10	0/10	0/5	5
Slovakia *	-	10	0	5
Slovenia *	25	5/15	5	5
South Africa	25	5/15	0	0
Spain *	50	10/15	5	5
Sweden *	25	5/10	0	0/10+
Switzerland	20	0/15[36]	0	0
Tajikistan	15	5/10	0/8[37]	8
Thailand	25	10	0/10/25[38]	15
Tunisia	25	10/20	10	10/15[39]
Turkey	25	5/15	0/5/10/15[40]	10
Turkmenistan	-	0	0	0
Ukraine	10	5/10	2/5[41]	5
United Arab Emirates	-	0	0	0
USA	10	5/15	0	0/10
Uzbekistan	10	5/15	0/10[42]	5
Venezuela	15	5/15	4,95/10[43]	5
Vietnam	70/25	5/10/15	10	7,5/10[44]

Source: Deloitte International Tax Resources

1 The lower tax rate applies if the equity interest is greater than or equal to the percentage shown (column 2). No taxes are withheld in EU member countries marked with * if the conditions- for application of the Parent-Subsidiary Directive are satisfied. Interest paid to non-Austrian corporations is not subject in Austria to limited tax liability. This means that no withholding tax is levied. No tax is levied for EU member states (*) that satisfy the conditions for application of the Interest and Royalties Directive. Withholding tax is deducted at the rates marked with + if the recipient holds more than 50% of the equity of the company paying the royalties.

2 If the recipient is the beneficial owner, the withholding tax is 10%; in special cases 0%.

3 If the recipient is the beneficial owner, the withholding tax is 10%; in special cases 0%.

4 5% for equity interests that are at least 25% and greater than USD 250,000, 10% for equity interests at least 25% and greater than USD 100,000; otherwise 15%

5 5% for industrial royalties and know-how if not older than 3 years; otherwise 10%

6 Up to 15% withholding tax; special meaning of interest for certain types of interest falling under Art. 7 or 21 of the DTC

7 If the recipient is the beneficial owner, the withholding tax is 5%; in special cases 0%

8 10% for copyright royalties for literary, artistic and scientific works, 25% for trademarks; otherwise 15%

9 Dividends paid to corporations are exempt from the tax.

10 0% for copyright royalties for computer software, patents for industrial, commercial and scientific works; otherwise 10%

11 6% for the use of industrial, commercial and scientific equipment, otherwise 10%

12 5% withholding tax for certain royalties, otherwise the national withholding tax rate applies

13 If the beneficial owner is a person resident in another country, the withholding tax is 10%; in special cases 0%.

14 5% for royalties for industrial, commercial and scientific equipment, otherwise 10%

15 0% for equity interests that are at least 50% and greater than 2 million Euro, 5% for equity interests at least 10% and 100,000 Euro; otherwise 10%

16 0% for copyright royalties for literary, artistic and scientific works (except for film and TV royalties); otherwise 10%

17 If the beneficial owner is a person resident in another country, the withholding tax is 10%; in special cases 0%.

18 If the recipient is the beneficial owner, the withholding tax is 10%; in special cases 0%.

19 2% for royalties for industrial, commercial and scientific equipment, otherwise 10%

20 If the beneficial owner is a person resident in another country, the withholding tax is 10%; in special cases 0%.

21 5% for royalties for industrial, commercial and scientific equipment, otherwise 10%

22 5% for royalties for industrial production plants, otherwise 10%

23 If the beneficial owner is a person resident in another country, the withholding tax is 10%; in special cases 0%.

24 5% for royalties for industrial, commercial and scientific equipment, otherwise 10%

25 10% for royalties for patents and trademarks, scientific works and industrial, commercial and scientific equipment and information; otherwise 15%

26 0% for copyright royalties for literary, artistic and scientific works, otherwise 10%

27 If the beneficial owner is a person resident in another country, the withholding tax is 10%; in special cases 0%.

28 10% for copyright royalties for literary, artistic and scientific works, otherwise 5%

29 15% withholding tax if the recipient of the interest is the beneficial owner; 10% withholding tax if the beneficial owner is a bank that does banking business; 0% in special cases

30 15% if the beneficial owner is a person resident in another contracting country. 0% if the beneficial owner is a company (not, however, a partnership)

31 If the beneficial owner is a person resident in another country, the withholding tax is 5%; in special cases 0%.

32 If the beneficial owner is a person resident in another country, the withholding tax is 3%; in special cases 0%.

33 5% for equity interests that are at least 10% and USD 100,000, otherwise 15%

34 If the recipient is the beneficial owner, the withholding tax is 5%; in special cases 0%.

35 5% for copyright royalties, otherwise 10%

36 No tax is withheld if the conditions for application of the Parent-Subsidiary Directive for the convention with Switzerland are satisfied.

37 If the beneficial owner is a person resident in another country, the withholding tax is 8%; in special cases 0%.

38 10% withholding tax if the interest is received by a financial institution; 0% in special cases; 25% in all other cases

39 10% for royalties for literary, artistic and scientific works (except for films, TV), 15% for industrial royalties and know-how, films and TV

40 5% for interest in connection with the Austrian Kontrollbank AG or the Turkish equivalent that promotes exports. 10% if the interest is received by a bank. 0% if the interest is paid to the other contracting state or to the central bank. 15% in all other cases

41 If the recipient of the interest is the beneficial owner, the withholding tax is 5%, in special cases 2%.

42 If the recipient of the interest is the beneficial owner, the withholding tax is 10%, in special cases 0%.

43 If the recipient is the beneficial owner of the interest and is a bank, the withholding tax is 4.95%, in all other cases 10%.

44 7.5% for technical services, otherwise 10%

4.2. DTC Relief Ordinance

Under the Austrian Income Tax Act and Austrian Corporation Tax Act, the domestic income of ***taxpayers with limited tax liability*** is subject to taxation in Austria. This right of taxation is greatly limited by a large number of double taxation conventions with the other countries mentioned above, so that there are two possibilities for DTC-compliant taxation:

- Full taxation according to national law followed by a ***tax refund*** to the taxpayer with limited tax liability.
- Immediate DTC-compliant taxation using the ***relief at source*** method

The Austrian DTC Relief Ordinance (DBA-Entlastungsverordnung) stipulates under which conditions relief may be provided directly at the source and under which conditions relief can form part of a refund by the tax authorities.

Relief at source is permitted for total payments of ***up to 10,000 Euro*** if the recipient of the income discloses the following information in a ***written declaration***:

- Family and given names or name of legal entity
- Declaration of no place of residence in Austria
- Addresses of residences in foreign countries representing the centre of the recipient's interests
- Country of establishment for legal entities and address of the real location of the entity's management
- Declaration that the recipient is under no obligation to pass the income to other persons
- Declaration that the income is not going to a domestic permanent establishment
- Type and amount of the payment received

For payments ***of more than 10,000 Euro***, relief at source in accordance with convention is only permitted if the recipient of the income provides a ***certificate of residence*** issued by the foreign tax administration. Forms ZS-QU1 (for natural persons) and ZS-QU2 or ZS-EUMT (for legal entities) must be used for this purpose.

If the foreign recipient of the income is a legal entity, the following information must be included with the declaration regardless of the size of the payment (unless a decision to provide a repayment was made in the last three years):

- Declaration that the entity's activities are not limited to asset management
- Declaration that the entity has its own employees
- Declaration that the entity has its own business premises

If the recipient is a tax transparent partnership, the requirements above apply to each partner and the company name and address must be indicated. If the total payments of a partner do not exceed 10,000 Euro, only the name and address of the party making the payment must be documented.

Relief at source is not permitted in the following cases:

- Deficient documentation
- It is known or should have been known that the income was not for the foreign recipient
- The payment is not made to the provider of the work (writer, artist, architect, athlete, etc.), but to a third party and no precise information on the provider of the service is available
- The recipient of the income is a foreign foundation, foreign trust or investment fund
- Investment income is paid out upon maturity or disposal of securities by financial institutions acting in their capacity as securities custodian or manager
- The income is received by a legal entity and the real location of the entity's management is outside the country of establishment

In these cases, the party making the payment must deduct and pay withholding tax to the tax authorities. If the requirements are satisfied, the foreign recipient of the payment receives, upon request, a refund of the difference between the withholding tax deducted and the withholding tax under the DTC. The Bruck/Eisenstadt/Oberwart Tax Office is responsible for refunds.

4.3. Transfer prices

Intercompany payments for goods and services is an important aspect of tax planning for international groups. For this reason, regulations for internal group transfer prices are becoming increasingly important for the tax administration. Both national and international guidelines are used when examining and evaluating transfer prices.

In Austria, the provisions of §§ 138, 162 of the Austrian Federal Tax Code (Bundesabgabenordnung – BAO) allow the tax administration to examine intercompany payments for goods and services. § 138 of the Austrian Federal Tax Code stipulates that taxpayers have an enhanced duty to cooperate for foreign matters. This includes in particular the ***duty of precautionary documentation of evidence*** (*Beweisvorsorgepflicht*) and the ***duty to provide evidence*** (*Beweismittelbeschaffungspflicht*). The taxpayer is therefore required to explain such matters and provide proof of their accuracy or make them plausible. If complete proof cannot be provided, the taxpayer must bear the associated tax risk. With regard to intercompany payments in particular, the taxpayer is required to retain all foreign documents related to payments within the group in its accounting system (duty of precautionary documentation of evidence) and to provide all evidence related to intercompany business relationships to the tax authorities upon request (duty to provide evidence). Under § 162 of the Austrian Federal Tax Code, the tax authorities can demand that the taxpayer precisely identifies the creditor or recipient of amounts owed or other expenditures in order to ensure effective taxation of such deducted payments (e.g. commissions).

Examination of intercompany transfer prices is aimed at determining whether goods and services charged to and recharged by an Austrian company are priced too high and are therefore unreasonable. This goal is to ensure that intercompany transfer prices satisfy the ***arm's length principle***. If intercompany transfer prices do not pass the arm's length test, an adjustment must be made to the profits of the companies concerned. This arm's length principle is in Art. 9 of the OECD Model Convention for double taxation conventions. The OECD Transfer Pricing Guidelines also provide interpretation guidance that is mandatory for the tax authorities since standardization of the ***Austrian Transfer Pricing Guidelines***. The Austrian Transfer Pricing Guidelines create a uniform legal interpretation that ensures greater legal certainty.

Under the Austrian Transfer Pricing Guidelines, a risk and functional analysis of the economically relevant functions of the companies involved is first performed to check that the value of the goods and services charged is accurate. The methods used to check transfer prices are the same as those in the OECD.

Transfer Pricing Guidelines:
- Comparable price method
- Resale price method
- Cost plus method
- Profit split method
- Transactional net margin method

In addition, intercompany transfer prices must be documented appropriately in order to ensure that values can be verified. This includes ***documentation*** of the allocation of business functions within the group, and documentation of transfer pricing and the transfer pricing methods used. If no transfer pricing documentation can be provided for review by the tax authorities, the OECD methods are used to estimate transfer prices.

Since transfer pricing is a highly complex area, the Austrian legal system includes special provisions in §118 of the Federal Tax Code. These provisions give taxpayers the opportunity to obtain a binding ***advance ruling*** on their transfer pricing from the tax authorities. This legal ruling gives taxpayers the right to future tax evaluation in accordance with the ruling. Future deviation from the ruling can only take place to the benefit of the taxpayer. It is important to note that an advance ruling application can only concern one specific issue, although more than one question can be raised on points of law. This legal response guarantees the receipt of the right of a legal claim for an evaluation according to the ruling and pertaining to the laws governing the charges, in cases in which the matter in question is to be carried out in ways that are essentially non-altered. In return for the legal certainty provided by this ruling, the taxpayer must pay an administrative fee of between 1,500 Euro and 20,000 Euro, depending on revenues.

5. Tax concessions

5.1. Research tax credit

The Austrian Budget Accompanying Act (2011) and 1st Austrian Stability Act (2012) introduce new provisions for the promotion of research in Austria. Starting with the 2011 assessment, a credit for research of ten percent of expenses qualifying for such can be claimed for in-house and contract research expenses, with the definitions of the terms "research and development" being based on the OECD Frascati Manual. The tax reform of 2015 raises the credit for research to 12 percent as of the 2016 tax assessment. The research tax credit for in-house research can be claimed if the research is performed in an Austrian firm or Austrian permanent establishment, and in cases in which the base of measurement is not subject to a limitation on amount.

A tax credit equal to 12 percent of expenses (as of 2016 tax assessment) can also be claimed by the commissioning party for ***contract research***, but only to a maximum of 1,000,000 Euro in expenses (that is, a maximum research tax credit of 120,000 Euro from contract research). The contract research must also satisfy the following conditions:
- The research must be outsourced by an Austrian firm or Austrian permanent establishment.
- The company contracted must have its registered office in the European Union or European Economic Area.
- The company contracted may not be under the control of the outsourcing company or a member of the same consolidated tax group.

Austria's Income Tax Act requires the securing of an assessment ***from the Austrian Research Promotion Agency*** (Forschungsförderungsgesellschaft – FFG) in order to claim the research tax credit for in-house research and development. As part of the requirements, the FFG must be provided with detailed descriptions of the research projects that are subject to strict formal requirements. The descriptions must include the following: project name, objective, methodology, innovation, share stemming from the respective project of the entire base of calculation, and planned term of project. The tax authorities have full discretion in evaluating the reports as evidence. Objections to the FFG assessment can be raised during the issuance procedure. To increase legal certainty, a research certification (Forschungsbestätigung) or ruling can be applied for in advance. Application for a research certification can be filed with the tax authorities for each research project to certify that the requirements for claiming the research tax credits are satisfied – as long as the research project has not yet been completed. The fee is 1,000 Euro for each project application, or 200 Euro if the application is rejected. The ***ruling*** certifies the size of the tax base for the research credit in a financial year and requires certification from an auditor. The research certification and ruling can be requested at the same time or separately.

5.2. Apprenticeship subsidy

There is a ***basic subsidy*** (*Basisförderung*) for apprenticeships. The basic subsidy can be applied for after completion of each year of apprenticeship, is graduated according to apprenticeship year, and is equal to between one and three times the gross collective agreement apprenticeship compensation (*Bruttolehrlingsentschädigung*) per year of apprenticeship. The basic subsidy is calculated on a pro rata basis in the case of half years, time credits and reductions of apprenticeship time. The deadline for application is three months after the end of the apprenticeship year concerned.

The previous Blum Bonus (subsidy for additional apprenticeship positions provided by the Public Employment Service Austria (Arbeitsmarktservice – AMS)) has been replaced by the ***Blum Bonus II*** (for new and returning apprentices). The Blum Bonus II is a subsidy of 2,000 Euro for apprenticeships having begun after 27 June 2008 and prior to 31 December 2010. This subsidy is only available for start-up companies and companies ***beginning apprenticeship training for the first time*** or resuming apprenticeship training. A maximum limit of ten apprenticeships per company applies.

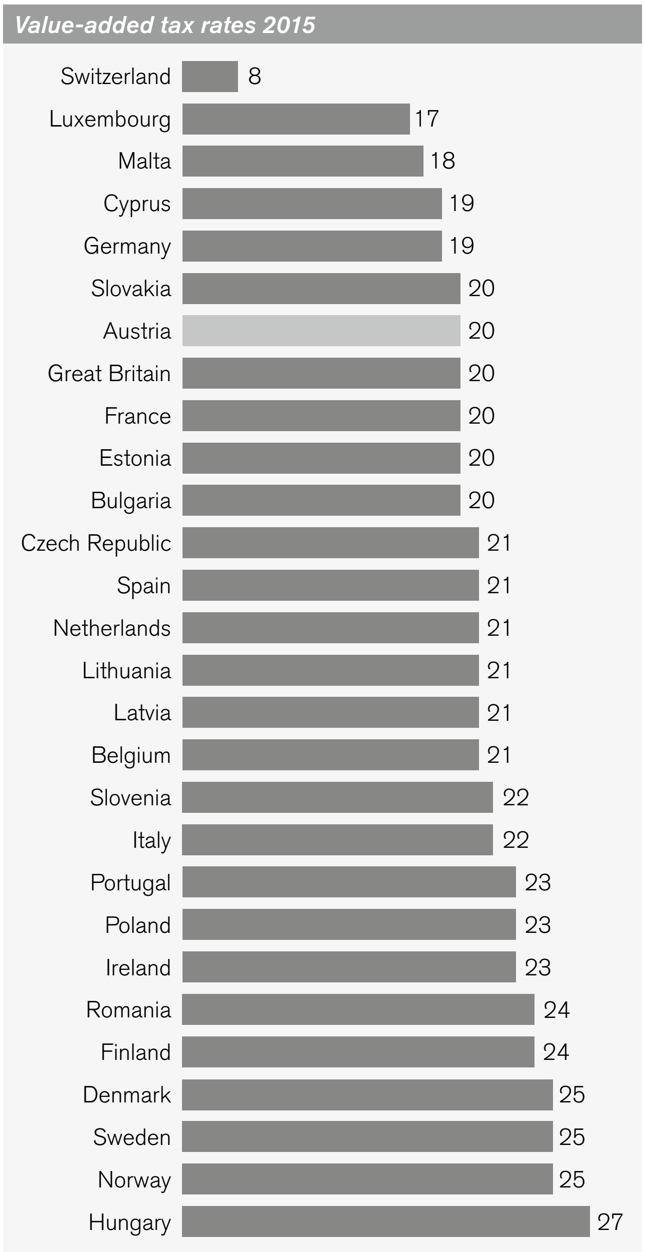
In addition, subsidies of 200 Euro and 250 Euro are available for good and excellent apprenticeship test results.

6. Value-added tax system

The following transactions are subject to value-added tax (VAT) in Austria:
- Goods and services provided by an entrepreneur in Austria in return for payment as part of the entrepreneur's business activities
- Own use in Austria (withdrawal or private use of company assets)
- Austrian imports from third countries (import VAT)

The VAT rate is normally 20 percent of the tax base in Austria. A reduced rate of ten percent applies, for example, to food, books, medications and property rental for residential use. As of 2016, there is a second reduced rate of VAT of 13%. It applies to certain live animals, animal fodder, stamps, entitlements to attend athletic events, accommodation and cultural services (for instance: movies, museums) etc.

An international comparison of normal tax rates places Austria at the low end of the middle-range:



Source: Deloitte Global Resources, Global Indirect Tax Rates

The ***tax base*** for goods and services is equal to the price paid, not including VAT. In the case of private withdrawals, the applicable value is the purchase price including ancillary expenses at the time of withdrawal. The tax base for goods and services furnished to parties outside a company is determined by the costs attributable to provision of the goods and services.

6.1. Goods

The place of delivery is where the goods are located at the time that power of disposal is acquired. The following applies for ***international trade***:

- When goods are shipped to a buyer, the place of delivery is where the shipment begins.
- In the case of imports from third countries, delivery is deemed to take place in the country of import if the VAT is due from the supplier.
- Intra-community purchase is deemed to take place in the member state in which the goods are located at the end of transport.
- Exports, i.e. goods transport or shipment to third countries, are tax-exempt.
- Intra-community deliveries are exempt from VAT. An intra-community delivery takes place if the goods are transported from one member state to another in the community and the buyer is an entrepreneur within the meaning of the Austrian Value-Added Tax Act *(Umsatzsteuergesetz – UStG)*.

6.2. Services

The place of performance for services depends primarily on whether the service is provided to an entrepreneur or non-entrepreneur.

The place of performance for services ***provided to an entrepreneur*** is generally the location of the recipient's company (B2B General Clause). If services are provided at the permanent establishment of a company, the location of the permanent establishment is the place of performance.

Exceptions from the General Clause include for example, property services, restaurant and catering services, and passenger transport services.

The place of performance for services ***provided to a non-entrepreneur*** is normally the location of the company of the entrepreneur providing the service. If the service is provided from a permanent establishment, the permanent establishment is the place of performance.

Exceptions from the general clause include, for example, goods and passenger transport services, artistic, cultural and scientific services and events, services listed in the Austrian Value-Added Tax Act (*Katalogleistungen*) and provided to non-entrepreneurs in third party countries, electronic services, as well as services in the areas of telecommunications, radio and TV.

6.3. Input tax deduction

In Austria, the entire burden of VAT is borne by the end consumers. The VAT charged to an entrepreneur can be deducted as input tax. As a rule, therefore, it does not represent a cost factor. Entrepreneurs are only permitted to deduct input tax, however, if the goods or services are obtained for the business and are used at least ten percent for the pursuit of business objects. Import VAT on third country imports can also be deducted as input tax. Input tax may not be deducted, however, if the entrepreneur providing goods or services is exempted from VAT (e.g. certain financial services, insurance agent services). All entrepreneurs providing goods and services in Austria are required to charge VAT, regardless of whether they are resident in Austria.

The Graz City Tax Office has jurisdiction over entrepreneurs with no registered office or permanent establishment in Austria. These entrepreneurs may also obtain input tax refunds from this tax office if they provide no taxable goods or services in Austria. Non-EU entrepreneurs must apply to the Graz City Tax Office for a refund of input tax by 30 June of the following year. EU entrepreneurs have until 30 September of the following year to electronically file an application in their respective countries of residence.

6.4. Reverse charge

The liability for VAT on services and work and materials contracts passes to the recipient of the services (reverse charge principle) if the entrepreneur rendering such does not operate a business in Austria and does not have a permanent establishment in Austria that is involved in providing the services, and an Austrian entrepreneur is recipient of the services.

In the case of construction services, the liability also passes to the recipient of the services if the recipient has been engaged to provide the construction services or normally provides construction services itself.

The reverse charge system also applies to:
- Delivery of assets assigned as security
- Delivery of property with retained title
- Foreclosure sales of property, buildings on third-party land and heritable building rights (*Baurecht*)
- Supply of natural gas, electricity, heating or cooling
- Transfer of natural gas and electricity certificates
- Transfer of greenhouse gas emission certificates
- Delivery of mobile devices
- Delivery of video game consoles, laptops and tablet computers if the amount paid is at least 5,000 Euro
- Delivery of certain metals
- Taxable delivery of investment gold

6.5. Tax exemptions

The Austrian Value-Added Tax Act provides many other tax exemptions in addition to the exemption for ***exports***. These include a number of banking transactions, property sales, insurance services and transport services for cross-border transport of goods. In addition, there is a VAT exemption for ***small entrepreneurs*** whose sales do not exceed 30,000 Euro per year. However, since this also leads to loss of the input tax deduction, small entrepreneurs have the option to waive the VAT exemption.

6.6. Tax returns and procedure followed

As a rule, companies must submit ***monthly VAT advance returns***. An advance payment owing in an advance return must be paid to the tax authorities by the 15th day of the second following month. A credit is provided for negative amounts. Companies with less than 100,000 Euro in sales in the previous year only need to submit quarterly advance returns.

After the end of the calendar year, the entrepreneur must file a tax return for the total VAT, input tax and import VAT. As a rule, the return must be submitted electronically by 30 June of the following year.

7. Other taxes

7.1. Real estate transfer tax

Acquisitions of Austrian real estate are subject to real estate transfer tax in Austria. Such acquisition includes not only transfer of title based on a purchase agreement, but also acquisition by foreclosure, adverse possession, and acquisition of all of the shares of a company whose assets include Austrian real estate – or, as of 2016, the transferring of at least 95 percent of the shares of such a company to a partnership. Acquisition of real estate as a gift or by reason of death is also subject to real estate transfer tax.

As defined in the Austrian Real Estate Transfer Tax Act *(Grunderwerbsteuergesetz)*, the term ***real estate*** means land and buildings, as well as natural fruits (e.g. plants, animals) and appurtenances (e.g. office furniture and equipment). The Austrian Real Estate Transfer Tax Act treats heritable building rights (*Baurecht*) and structures on third-party land (*Superädifikat*) as equivalent to real estate. Real estate does not, however, include machinery and other operating equipment (e.g. cranes, tanks).

Transactions exempt from real estate transfer tax include the following:
- Acquisition of real estate with a tax base of up to 1,100 Euro (allowance)
- Gratuitous acquisition up to a value of 365,000 Euro (allowance) for transfers to a natural person who is part of the family by a person who is at least 55 years of age at the time of transfer or is physically or mentally disabled, if the gift is a business, business unit or partnership interest As of 1 January

2016, this rule applies exclusively only to agricultural and forestry properties. For all other properties, the allowance is to be increased to 900,000 Euro. This also is available for acquisitions on a partially-commercial basis, and is no longer restricted to members of a family.
- Acquisition of real estate for an official measure aimed at improving the shape of a building plot
- Acquisition as a result of an official intervention or as a result of a legal transaction performed to avoid such an intervention that can be shown to have been imminent
- Partition of real estate among co-owners, if the value of the portion acquired equals the co-owner's share of the real estate before partition
- Acquisitions taking place between spouses or registered partners for the purpose of building a residence with a maximum of 150 m². As of 1 January 2016, a tax exemption limit will be introduced, freeing acquisitions of residential-use property of up to 150 m² from this stipulation. In a complementary move, a corresponding stipulation will be introduced. It applies to an acquisition due to death.

The ***real estate transfer tax rate*** is generally 3.5 percent. A special tax rate of two percent applies, however, for acquisitions by spouses, registered partners, "life partners" (Lebensgefährte) (provided the life partners have or had a common main residence), parents or children (including step children, adopted children, grandchildren and children-in-law), and partition of marital assets during divorce or dissolution of a civil union.

The Tax Reform of 2015 stipulates that the previously determined rates apply exclusively to agricultural and forestry properties. A new rate of taxation was introduced for acquisitions, be they without or for partial consideration (consideration amounting to a maximum of 70 percent of the value of the property). This rate amounts to 0.5 percent for purchases of up to 250,000 Euro; 2 percent, for those between 250,000 and 400,000 Euro; and 3.5 percent, for those greater than that. In cases of death or intra-family transactions, a bracket rate can be applied. This is regardless of any consideration being provided. Also in force are other special-purpose stipulations. One of these applies to transfers of operations to favored parties. The real estate tax is limited to 0.5 percent of the entire value of the property. This 0.5 percent rate of taxation also applies to acquisitions of all shares, alterations of the shareholders forming partnerships, and reorganizations. In cases of bracket tax rates or a rate of taxation of 0.5 percent's being used, an application can be lodged to have the apportionment of the payment of the real estate acquisition tax extended to two to five years. Any acquisitions involving the same person are to be agglomerated within the five year period when applying the rate.

As a rule, real estate transfer tax is calculated using the value of the consideration provided, plus the other liabilities assumed. If no consideration is provided, the calculation is based on the market value of the real estate. This also applies if the consideration is less than the market value of the real estate. The following exceptions apply to this basic rule:
- In the case of a transfer for or without consideration between close family members or acquisition by reason of death between such family members, the tax base is three times the *Einheitswert (assessed tax value)*, subject to a maximum of 30 percent of the current value.
- A value of three times the *Einheitswert*, subject to a maximum of 30 percent of the current value, is also used in the case of a transfer of all shares in a company that holds real estate, or if all shares of such a company are acquired.
- In the case of reorganizations falling under the Austrian Reorganization Tax Act, the real estate transfer tax is calculated on a base of two times the *Einheitswert*.
- The tax base is equal to the *Einheitswert* for transfers of agricultural and forestry real estate between close family members or acquisition by reason of death between such family members, and in the case of reorganizations falling under the Austrian Reorganization Tax Act or the acquisition of all shares of a company when agricultural and forestry real estate is concerned.

As of 1 January 2016, the base of calculation will be altered. Used as the minimum in these calculations is to be the value of the property instead of the fair market value. The former is either the sum of the extrapolated (proportionate) three-fold values of the property and of the building, or is equivalent to the value derived from a suitable chart of real estate prices. Should corroboration be provided, the fair value can be incorporated into the base of calculation. The details of the calculation of the property's value are contained in a regulation. In cases of reorganizations, of acquisitions of all shares and of alterations in the group of shareholders, it is the value of the property that forms the base of calculation. The exceptions existing for families have been stricken without replacement. Still in force is solely the base of calculations existing for agricultural and forestry properties (straightforward assessed value).

Liability for real estate transfer tax is incurred at the time the acquisition is realized (e.g. conclusion of agreement, final decision on devolution of estate or certification by the probate court in the case of acquisition by reason of death). In the case of acquisition by operation of law, the owner and acquirer are liable for the tax, and in the case of acquisition by reason of death only the acquirer is liable. If all of the shares of a company are acquired by a single party, this party is liable for the tax.

In cases of alterations of the make-up of the shareholders, this group is responsible for the tax. For all other forms of acquisition, all of the parties involved in the acquisition are liable for the real estate transfer tax.

A tax declaration (*Abgabenerklärung*) must be submitted for acquisitions subject to real estate transfer tax by the 15th day of the second month following the date the liability is incurred. An assessment notice is issued based on the tax declaration. The tax liability generally becomes due one month after this notice is served. When acting as agents, lawyers and notaries have the right to calculate the real estate transfer tax themselves and pay it to the tax authorities.

After real estate transfer tax has been paid in full, the tax authorities issue a certificate of non-objection that is required for registration in the land register. In the case of self-calculation by an agent of one of the parties, a self-calculation declaration (*Selbstberechnungserklärung*) is sufficient. Should the property acquisition tax be paid for in installments, the issuance of the self-calculation declaration is to be made upon the payment of the first installment.

7.2. Stamp duties and legal transaction fees

Legal transactions are subject to fees in Austria when executed by means of a legal instrument that is expressly mentioned in the Austrian Fees Act *(Gebührengesetz)*. A distinction must be made between fixed fees (e.g. official copies, excerpts, travel documents, drivers licences, marriages) and percentage-based fees (e.g. rental agreements, guarantees, settlements, assignments, bills of exchange). While a fixed amount is levied for fixed fees, in the case of percentage-based fees a percentage of the contract amount must be paid as a fee. In addition, the tax authorities must be notified of percentage-based fees by the 15th day of the second month following the date the liability is incurred and an assessment notice issued. An assessment notice with a surcharge of 50 percent can be issued for fixed fees that are not paid in accordance with requirements. Except for betting fees, a surcharge up to the amount of the original fee can be levied for all other fees.

Fees are required only for ***legal transactions*** executed by legal instruments. Written letters of acceptance are also considered legal instruments. According to a finding issued by the Austrian Administrative Court, emails must also be considered legal instruments that create liability for fees in Austria. Legal transactions that fall under the Austrian Real Estate Transfer Tax Act *(Grunderwerbsteuergesetz)*, Austrian Capital Transfer Tax Act *(Kapitalverkehrsteuergesetz)* and Insurance Act *(Versicherungsgesetz)* are exempt from fees under the Austrian Fees Act. This also applies to legal transactions that fall under the Austrian Foundation Entrance Tax Act *(Stiftungseingangssteuergesetz)*.

Liability for fees is incurred for legal instruments executed in Austria at the time they are signed by all contracting parties. If an instrument is only signed by one contracting party, liability is incurred when the instrument is provided to the other contracting party. In the case of legal instruments executed outside of Austria, liability for fees is incurred at the time of signature, if the parties are resident in Austria and the instrument relates to a matter in Austria or one of the parties undertakes to provide performance in Austria. If the parties are not resident in Austria, fees are still required for instruments executed outside of Austria if the instrument is brought to Austria and relates to a matter in Austria or one of the parties undertakes to provide performance in Austria. This also applies to cases in which official use is made of the deed. Liability for fees comes into being at the time of the transporting of the deed into Austria or of official use. The Austrian Fees Act does, however, include exceptions for some legal instruments in terms of the time when liability for a fee is incurred (e.g. bills of exchange, betting).

Both contracting parties are ***liable for the fees***, except for legal transactions that only obligate one party, in which case the party in whose interest the instrument is issued is liable. As the case for the time liability is incurred, exceptions also exist here (e.g. bills of exchange, betting). All parties liable for fees are jointly and severally liable. In addition to these parties, all other parties involved in the legal transaction are also liable.

The size of the fee depends on the underlying legal transaction and whether the fee is a fixed or percentage-based fee. For example, the following ***fee rates*** apply (in percent of tax base):

- Rental agreements 1%
- Assignments 0.8%
- Guarantees 1%

II. Permanent establishment – Branch office

1. Branch office

If a legal entity resident outside of Austria establishes a branch office in Austria, the branch office must be registered in the ***company register***. A coercive penalty can be imposed if this is not done. The law does not define at what level of economic activity a branch office exists. Based on the literal meaning of the words, however, it can be assumed that a head office exists outside of Austria.

As a rule, a branch office is ***independently managed*** in its interactions with the outside world, with the manager frequently having independent power of representation in this area. It generally makes no difference if the manager is bound to instructions from top management. Established case law does not require separate assets, but according to European Court of Justice decisions one can only assume the existence of a fixed establishment if a ***minimum level of permanent human and technical resources***[6]. The branch office must conclude and process major transactions for the enterprise as a whole (i.e. not just ancillary transactions). A company that only concludes transactions, but does not process them therefore cannot be a branch office. Although separate accounting is an indicator, it is not a requirement for the existence of a branch office.[7]

A branch office does not acquire its own legal capacity upon registration, which means that the contracting party is always the foreign entity. As a rule, therefore, the executive bodies of the foreign company also represent the branch office.

Taxation of a branch office depends on whether it is considered a ***permanent establishment*** for tax purposes. In practice, branch offices generally satisfy the criteria for a permanent establishment, as the meaning of permanent establishment is broader than that of branch office.

6 Straube, Wiener, Commentary on the Austrian Commercial Code, Accounting, 2012, §12, marg. number 24 et seqq.

7 Schuhmacher, Gruber, Legal issues concerning the branch office, 1993, p. 7 et seqq.

2. Definition of permanent establishment for tax purposes

As a rule, the country in which a taxpayer's place of residence or registered office is located has the right to tax business profits. However, if an entrepreneur establishes a permanent establishment in another country, all profits attributable to the permanent establishment have limited tax liability in the permanent establishment country. The meaning of "permanent establishment" is therefore very important, as the issue of at what point a permanent establishment exists for tax purposes often arises in practice.

Under the OECD Master Convention, a permanent establishment is considered a ***fixed place of business*** through which the business of an enterprise is wholly or partly carried on. The term includes, for example, a place of management, branch, office, factory and workshop, as well as a building site or construction or installation project if it lasts more than a certain period. The term does not include facilities for storage, display, purchasing or information collection. Multiple spatially separated places of business are to be evaluated separately for categorization as a permanent establishment.[8]

To qualify as a permanent establishment the following conditions must be satisfied:

- ***Fixed element***: An owned or rented place of business at the disposal of the enterprise
- ***Functional element***: Business must be carried on through this place of business

Time element: Not of just a temporary nature; a permanent establishment does not exist if use is only temporary.

Case law views the term fixed place of business in terms of the business and requires that the business be wholly or partly carried on there. Assessing whether the scope of business activities satisfies the requirements of a permanent establishment is less difficult the more the actual business activities take place outside the fixed place of business.

An ***international representative office***, for example, that consists of just a small office with only one or a few employees whose main responsibility is initiation of business deals and contact relationship management for potential customers and cannot process any orders itself will generally not be a permanent establishment for income tax purposes. In some cases, however, this

8 Bertl, Djanani, Kofler, Handbuch der österr. Steuerlehre (Manual of Austrian Taxation), 1998, p. 570 et seqq.

depends on the activities of the enterprise and the provisions of the applicable DTC. The Austria-Japan DTC, for example, includes the negative constraint that a fixed place of business maintained exclusively for advertising, providing information, performing scientific research or carrying out similar activities that are of a preparatory nature for the enterprise or are ancillary activities ***does not qualify as a permanent establishment*** within the sense of the convention.

3. Taxation of Austrian permanent establishments

If a permanent establishment is present in Austria, this non-Austrian company has ***limited tax liability*** in Austria and must register with the Austrian tax authorities. The tax liability exists for all of the income of the domestic permanent establishment. The profits it would have earned if it had carried out similar activities under the same or similar conditions as an independent enterprise are attributed to the permanent establishment. In practice, two methods have developed for this purpose:

Direct attribution of profits: A permanent establishment is treated as an independent business, and business relationships it has with third parties are attributed to it. General operating expenses are attributed, as are general management expenses, but a profit margin is not. In practice, the earnings of the permanent establishment are attributed based on the accounting or, if unavailable, by estimation.

Indirect attribution of profit: The total earnings of the enterprise are first determined and then divided between the head office and permanent establishment using appropriate allocation keys. This method is only used in exceptional cases.

Loss deductions in subsequent years can only be included to a limited extent. The losses must have been generated in the domestic permanent establishment and must exceed the other (global) income of the enterprise. The domestic loss must therefore be offset ***first against positive domestic income***. Foreign income must be determined and disclosed based on Austrian tax law. Loss deduction can only be secondarily applied to the country of residence. It is irrelevant whether a loss offset is possible in the country of residence. In the case of a DTC that prohibits discrimination involving operating facilities (operations are not to be subject to relative – when compared to unlimitedly tax-liable companies - taxation disadvantages); however, a loss carryforward must be granted if the losses cannot be used in the country of residence.

Please see Part I on corporations for information concerning special aspects of operating expenses, special international aspects, tax concessions and other taxes.

4. Taxation of foreign permanent establishments

Since corporations with unlimited tax liability in Austria are liable for tax on their entire global income, losses from foreign permanent establishments can also be deducted from Austrian income. This is only the case, however, if they have been calculated according to Austrian law. In addition, the amount amount of such losses that can be deducted is limited to the amount calculated according to foreign law. Losses that have already been deducted abroad cannot be deducted in Austria. If foreign income is exempt from domestic taxation (exemption method), foreign losses reported for domestic tax purposes are fully or partially recaptured in each calendar year in which they are fully or partially claimed or could be claimed abroad. Under the Austrian Tax Amendment Act of 2014, recapture is also mandatory for foreign losses claimed for domestic tax purposes after no later than three years if the country from which the losses originate does not offer comprehensive administrative assistance.[9]

The new provisions apply for the first time for assessments starting in 2015. Losses from countries not offering comprehensive administrative assistance that have been claimed for the 2014 assessment or earlier and have not yet been recaptured, are to be recaptured in assessment years 2016 to 2018, one third in each year.

5. VAT liability of a permanent establishment

The definition of entrepreneur in the Austrian Value-Added Tax Act, and therefore liability for VAT, does not depend on legal form. The discussion on VAT in Part I therefore also applies to permanent establishments.

The ***concept of "permanent establishment"***, however, is also of critical importance in the area of VAT, namely in connection with the provision of services. If, as is discussed in section 8.2, a service is provided to the permanent establishment of an entrepreneur, the location of the permanent establishment is the place of performance and the service is taxable at this location. Services provided to an Austrian permanent establishment are

9 See footnote 4, Page 8

therefore taxable in Austria, and the foreign enterprise of the permanent establishment can claim a deduction for input tax charged. Conversely, if a service is provided by a permanent establishment, the location of the permanent establishment is considered the place the service is provided. The enterprise of the permanent establishment must issue an invoice with Austrian VAT and pay the VAT to the tax authorities.

The term permanent establishment is interpreted here based on Community case law. The European Court of Justice Cox refers in this connection to a "fixed establishment" characterized by a sufficient ***minimum level of permanent human and technical resources*** necessary to provide a service, and a sufficient degree of permanence in the sense of permanent interaction of human and technical resources. One cannot refer to a fixed establishment, however, if neither personnel nor a structure allowing a service to be provided are present.[10]

Example: A leasing company without personnel or a structure allowing autonomous provision of service in the country of vehicle use does not have a fixed establishment.

10 Ruppe, Umsatzsteuergesetz Kommentar (Commentary on the Value-Added Tax Act) 2005, §3a marg. number 107

III. Taxation of natural persons

1. General information

Natural persons with their ***place of residence or normal residence*** in Austria have unlimited tax liability there. This tax liability applies to all domestic and foreign income (global income). If natural persons have neither their place of residence or normal residence in Austria, tax liability is limited to their Austrian income.

The Austrian Income Tax Act differentiates between seven different types of income. These seven income types represent an exhaustive list. Income that does not fall under one of these income types is not subject to income tax in Austria.

Business income includes:
- Income from agriculture and forestry
- Self-employment income
- Income from business operations

The ***non-business income types*** include:
- Employment income
- Investment income
- Rental and lease income
- Other income

The first step in determining total income is to add together all income in each income type. The next step is to offset (where possible) or add together the different income types. The result is the total income of the taxpayer for income tax purposes. Deductions may also be claimed for certain special expenses (*Sonderausgaben*), extraordinary expenses (*außergewöhnliche Belastungen*) and allowances. Progressive income tax is then calculated based on the income determined in this way.

Income below 11,000 Euro is exempt from income tax. Progressive tax rates are applied to income above 11,000 Euro. Income above 60,000 Euro is taxed at a rate of 50 percent. As of 2016, income won't be taxed at a 50 percent rate until it reaches 90,000 Euro. Portions of income worth more than one million euros will be taxed at 55 percent. This rate is limited until 2020. The total tax due is therefore calculated as follows:

Income (IC)	Income tax in Euro
11,000 to 25,000 Euro	$\frac{(IC - 11{,}000)}{14{,}000} \times 5{,}110$
25,000 to 60,000 Euro	$\frac{(IC - 25{,}000)}{35{,}000} \times 15{,}125 + 5{,}110$
more than 60,000 Euro	(IC - 60,000) x 0.5 + 20,235

As of 2016, this is the total tax encumbrance:

income (I)	rate of income tax
for the first 11,000 Euro	0%
for 11,000 to 18,000 Euro	25%
for 18,000 to 31,000 Euro	35%
for 31,000 to 60,000 Euro	42%
for 60,000 to 90,000 Euro	48%
for 90,000 to 1,000,000 Euro	50%
more than 1,000,000 Euro	55 %

An international comparison of top tax rates shows the following:

Country	Maximum rate	…starting at
Czech Republic	15%	flat rate
Hungary	16%	flat rate
Slovakia	25%	EUR 35,022,32
Poland	32%	PLN 85,528
United States	39,60%	variabel
Japan	40%	JPY 18,000,000
Ireland	41%	EUR 32,800
Italy	43%	EUR 75,000
Germany	45%	EUR 250,730
Great Britain	45%	GBP 150,000
France	45%	EUR 151,200
Austria	50%*	EUR 500,000
Slovenia	50%	EUR 70,907.20
Belgium	50%	EUR 37,750
Netherlands	52%	EUR 57,585

Source: IBFD 2014[11]

* The taking into account of the favorable rates accorded to 13th and 14th months' wages causes the peak tax rate to take effect only at 500,000 Euro and above – and not as of 60,000 Euro. As of 2016, income of more than one million Euro causes a tax rate of 55 percent to take effect. This is limited in term until 2020.

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2. Employment income

In addition to salary and benefits from existing and former employment (remuneration for active service and company pensions), employment income also includes payments from statutory health and casualty insurance funds, pensions funds and company pension funds. Both cash and non-cash remuneration (remuneration in kind) is included, e.g. employee housing, employee provided work clothes, company car and parking at the place of employment.

Employment income is taxed in the form of ***payroll tax*** deducted from employee pay. Employers must calculate, deduct and pay this payroll tax to the tax authorities and are liable for correctly deducting and paying the tax.

Social security

The employee share of statutory social security contributions is also deducted and paid at the same time that payroll tax is deducted. Social security contributions are calculated based on gross pay using the following rates for salaried employees (different rates for wage earners):

Type of contribution	Employee contribution	Employer contribution
Health insurance	3.82%	3.83%
Casualty insurance		1.3%
Pension insurance	10.25%	12.55%
Unemployment insurance	3%	3.45%
Other	1%	0.5%
Total	18.07%	21.63%

Source: WKO.at, Beitragswesen Dienstnehmer 2015 (Employee Contributions 2015)

A monthly ***maximum threshold*** of 4,650 Euro (maximum contribution base) applies to regular salary payments. In the case of special payments (*Sonderzahlungen*), there is an annual threshold of 9,300 Euro, an employee contribution of 17.07 percent and an employer contribution of 21.13 percent.

In addition, 1.53 percent of employee salary must be paid into a corporate pension fund. (Employer) contributions equalling 4.5 percent and 3 percent of gross salary must be made to the Austrian Family Assistance Fund (*Familienlastenausgleichsfonds*) and local government, respectively. The Austrian Economic Chamber (employer surcharge) Contribution (*Wirtschaftskammerumlage*) is approximately 0.4 percent, depending on state. If family members are co-insured, the employee must pay a contribution equal to 3.4 percent of the contribution base. Total non-wage labor costs are therefore approximately 31 percent for the employer.

Further deductions in the form of ***income-related expenses*** (*Werbungskosten*), ***special expenses*** (*Sonderausgaben*), ***extraordinary expenses*** (*außergewöhnlichen Belastungen*) and ***allowances (Freibeträge)*** can be claimed in the employee's tax assessment.

Non-cash remuneration

Special provisions apply to non-cash remuneration. If special fixed rates (e.g. for company cars) are not available, these must be reported using typical average prices at the place of use. Many forms of non-cash remuneration, such as meal coupons (4.40 Euro per day) and company outings (up to 365 Euro), are exempt from payroll tax.

Other remuneration

Other remuneration (for instance: 13th and 14th months of remuneration) receives preferential tax treatment. 620 Euro is tax-exempt, with the remainder taxed at a rate of six percent up to a limit of one-sixth of regular pay. No tax is levied if one-sixth of regular pay does not exceed 2,100 Euro. The Austrian Stability Act of 2012 *(Stabilitätsgesetz 2012)* and Austrian Tax Amendment Act of 2014 introduced a ***solidarity tax*** starting in 2013. The following rates apply to other remuneration below the one-sixth of regular pay limit:

first EUR 620	0%
EUR 620 to 25,000	6%
EUR 25,000 to 50,000	27%
EUR 50,000 to 83,333	35.75%
above EUR 83,333	50%

Bonuses for dirty working conditions (*Schmutzzulage*), difficult working conditions (*Erschwerniszulage*) and dangerous working conditions (*Gefahrenzulage*), and bonuses for weekend, holiday and night work are tax-exempt up to 360 Euro per month. The overtime premium for the first five overtime hours per month, to a maximum of 50 percent of base salary, is not taxed – the limit here is 86 Euro per month.

Severance pay due to termination of employment is also considered employee pay and is therefore included in employment income. In the case of severance amounts equal to a multiple (depending on the length of employment) of regular pay, the payroll tax is calculated as a multiple of the payroll tax on the regular pay. A preferential tax rate of six percent is applied, however, if this reduces the amount of payroll tax. Voluntary severance pay is also taxed at six percent, provided the total does not exceed one-quarter of the regular pay for the last twelve months. The Austrian Tax Amendment Act of 2014 introduced a cap, so that a maximum of 41,850 Euro is now taxable at six percent.

Employees with limited tax liability are only subject to payroll tax in Austria if the employer maintains a permanent establishment in Austria. 9,000 Euro is added to the income of employees with limited tax liability when income tax is calculated.

3. Tax concessions for seconded employees

Individuals that have a place of residence or normal residence in Austria, i.e. spend more than six months of the year in Austria, have ***unlimited tax liability*** in Austria. Individuals who are temporarily posted in Austria by a foreign employer to work for an Austrian employer and did not have a place of residence in Austria in the last ten years are considered "expatriates". The employment in Austria cannot last longer than five years and the employee's permanent residence must remain abroad.

In order to simplify payroll accounting for foreign managers seconded to Austria ("expatriates"), the Austrian Ministry of Finance issued a decree granting certain deductions to these seconded employees. The deductions can be made by the employer, in which case they do not need to be claimed in later assessments.

Deductions can be claimed for actual moving expenses (max. 1/15 of annual gross pay), expenses for maintaining two households (e.g. rent, operating costs, max. 2,200 Euro per month), expenses for vocational training of one child outside of the city of residence (flat rate of 110 Euro per month) and expenses for trips home (max. 306 Euro per month).

Income-related expenses and extraordinary expenses other than those indicated in the decree may not be included in this simplified procedure, but can be claimed on the annual tax return.

The tax authorities must be notified that the simplified procedure will be used at the beginning of the period of employment and at the beginning of each subsequent calendar year.

As of the 2016 tax assessment, costs of advertising can be deducted from taxes. This deduction takes the form of a a lump sum amounting to 20 percent of the base of calculation (gross remuneration minus tax-free recompense and other compensation). The lump sum is not to exceed 2,500 Euro a year. The lodging of the claim for the lump sum allowance can be immediately undertaken by the employer (please also see Point 9 on the constituting of flat-rate allowances).

The ***tax liability*** of employees with no place of residence or normal sojourning in Austria is ***limited*** to Austrian income for work that is performed in Austria or intended to directly benefit the Austrian economy.

To avoid double taxation of income that is taxable in Austria, double taxation conventions with other countries determine which country has the right of taxation. These conventions are based on the OECD Model Convention, which stipulates that the right to tax self-employment income remains with the state of residence if

- The recipient of the remuneration spends ***no more than 183 days*** in the other contracting state during a calendar year and
- The remuneration is paid by or for an employer that is ***not resident in the other state*** and
- The remuneration is ***not paid by a permanent establishment*** that the employer has in the other state.

In a decree of 12 June 2014, the Austrian Ministry of Finance made it clear that the term employer is to be interpreted in an economic sense in this connection and that the employer receives employer status in accordance with the convention. This means that employees are also liable to taxation in the country of employment even if their stay there is less than 183 days. There are, however, exceptions to this. In individual cases, however, the provisions of the double taxation convention between the countries concerned must be clarified.

Social security

As a rule, national statutory provisions apply to individuals employed in Austria, who are required to make social security contributions. This is in contrast to the "spillover principle", which holds that domestic social security should not be interrupted if a taxpayer is temporarily seconded to another country. Application of both of these principles can lead to an obligation to make social security contributions in two or more countries. To avoid this, ***bilateral treaties and EU regulations*** were adopted to specify the country where an obligation to make social security contributions exists and which benefits can be claimed, and mutual recognition of claims and coverage periods. In many cases, these treaties allow employees seconded for a limited period of time to remain in their current social security systems.

Right of residence

As a rule, citizens of the EEA and Switzerland have an unrestricted right of entry and temporary residence in Austria. Citizens of third countries who would like to work in Austria for a period of no more than six months must apply to an Austrian representative office abroad for a ***visa*** valid for up to six months. Application must be made for a ***residency permit or permanent residency*** for longer periods of stay. Citizens of third countries (and currently also citizens of Croatia) must also obtain an Austrian work permit from the Austrian Foreign Office.

Other reporting requirements

An entrepreneur who seconds employees from other EU/EEA states or Switzerland to Austria must report the secondment to the Central Coordination Office (ZKO) of the Austrian Federal Ministry of Finance. This must be done no later than one week before the start of employment.

4. Self-employment income

Income in this category includes income from scientific, artistic, writing, teaching and educational employment, as well as income from professional employment as a doctor, lawyer, notary, public auditor or tax advisor (*Wirtschaftstreuhänder*), interpreter, or journalist (the so-called independent professions). Employment income in the area of asset management, such as property manager or supervisory board member, is also included in this income type. ***Shareholder directors*** are given special treatment.

As a rule, income received by a shareholder director is employment income if the shareholder holds an interest of up to 25 percent in the company. If the interest is greater than 25 percent, then the income of the shareholder director is generally considered to be self-employment income, even if the shareholder director performs no management activities in the company.

Shareholder directors who do not hold a material interest earn employment income, and therefore fall into the category of employees subject to payroll tax. This means that the company must deduct payroll tax during payroll accounting. Classification as a shareholder director with a non-material interest means that the shareholder director is entitled to all of the tax concessions available for employees (e.g. preferential taxation of special payments and severance pay).

Shareholder directors holding an interest greater than 25 percent earn self-employment income that must be reported for assessment – even if they are bound by instructions under the articles of association. They are not entitled to any employee tax concessions.

5. Investment income

The ***Austrian Budget Accompanying Act of 2011*** *(Budgetbegleitgesetz 2011)* made extensive changes in the taxation of investment income. In addition to income from the provision of capital (for example, dividends, interest, income from profit participation rights and profit shares from interests held as a silent partner), investment income now also includes realized increases in the value of investments and income from derivatives.

Dividends, interest (from bank deposits, savings accounts and bonds), income from the disposal of investments and income from securitized derivatives are subject to the "special tax rate" (*besonderer Steuersatz*) of 25 percent which is deducted as withholding tax if there is an Austrian paying agent or custodian. These forms of income coming from a foreign source (foreign paying agent or custodian) are taxed at the "special tax rate" of 25 percent during assessment. A credit can be claimed for tax deducted at source, regardless of whether a double taxation convention exists. In the case of foreign investment income in the form of dividends, the credit is limited to 15 percent of the income received.

The special rate of taxation amounts to 25 percent. This will be increased to 27.5 percent as of 2016. This does not apply to income from investments and from other non-securitized receivables due from banks, with the exceptions of compensatory payments and rental fees. This are still taxed at the 25 percent rate.

The withholding tax deducted from investment income received by Austrian residents in the form of ***bank interest and interest*** from securities in Austrian securities accounts definitively discharges the income tax liability, which means that no assessment is required. This is also the case for Austrian ***dividend income*** received from an Austrian paying agent or custodian. Investment income tax must be paid for investments held as private assets as well as those held as business assets.

Taxpayers with a progressive tax rate of less than 25 percent (as of 1 January 2016: 27.5 percent) can report this income for assessment and receive a refund or credit for the definitive tax paid. It is important to note, however, that all investment income must be included in the assessment in this case. It is not possible to continue applying the definitive withholding tax to part of the investment income.

Investment income in the form of ***realized increases in the value of investments*** is also subject to the 25 percent „special tax rate" tax (as of 1 January, 2016: 27.5 percent) when it comes from the sale of a „new portfolio" (company or fund shares bought after 31 December, 2010 and other financial assets acquired after 31 December, 2012). All other financial assets are considered „old portfolios" and can be divested exempt from taxes. The income is calculated as the difference between the proceeds from disposal and acquisition cost. Incidental acquisition costs may also be included for investments held as business assets. This is not possible for investments that are not held as business assets. The tax liability for income from investments held as private assets is definitively discharged by the withholding tax. This is not the case for investments held as business assets.

This can be summarized as follows:

Income	*Dividends*	*Interest*	*Realized increases in value*	*Derivatives*
Subject to investment income tax if	paying agent/debtor is in Austria	paying agent/debtor is in Austria	Austrian custodian/ paying agent	Austrian custodian/ paying agent
Definitive discharge of taxes (private assets)	yes	yes	yes	yes
Definitive discharge of taxes (business assets)	yes	yes	no	no

Special ***provisions govern the deduction*** of ***losses*** suffered. As a rule, investment losses must be reported for assessment to claim a deduction. They may not, however, be offset against other income types. Even for income of the same type, losses cannot be deducted from income that is not subject to the special tax rate. In addition, disposal losses cannot be offset against interest income from cash deposits and other receivables from banks. Private persons may not carry forward any remaining losses.

50 percent of losses (as of 1 January 2016: 55 percent) can be carried forward for business purposes. Offsetting losses against investment income for which definitive withholding tax had been paid previously had to be done in an income tax return. Since 1 April 2012 the bank maintaining a securities account can offset losses directly. In cases in which there are two or more deposit accounts and in which these are maintained at two

or more banks, an offsetting of losses continues to be possible only through the conducting of a tax assessment.

Interest from private loans, non-securitized derivatives and profit shares of a silent partner is taxed using normal progressive tax rates.

6. Investment funds held as private assets

Investment funds are portfolios of securities, money market instruments and other liquid financial assets that are divided into unit certificates in order to provide co-ownership to unit holders. Because investment funds are not subject to taxation, income is taxed at the unit holder level based on the pass-through principle.

Taxation depends on the ***time*** that income is realized, and a distinction must be made between ***distributed income*** and ***deemed distribution income***. Distributed income is recorded and taxed at the time of distribution. Deemed distribution income is primarily income retained (reinvested) by the fund. This income is deemed distributed on the date of the announcement by the Reporting Unit.

Since the Austrian Budget Accompanying Act of 2011, a distinction must be made between reporting funds and non-reporting funds. ***Reporting funds*** have a tax representative that reports the amount of taxable income and investment income tax. ***Non-reporting funds*** do not have a tax representative. The amount of taxable income is estimated as 90 percent of the difference between the first and last redemption prices set during the calendar year, or ten percent of the final redemption price for the calendar year, whichever is greater. As a result of new statutory provisions, Austrian custodians or paying agents must withhold investment income tax based on this flat-rate estimate of income, which was previously required to be reported for assessment. If the investor reports the income himself, the estimation is avoided and an adjustment is made to the investment tax deducted.

If the ***coupon paying agent is in Austria***, investment income tax is withheld, which definitively discharges the liability for taxable fund income. If the paying agent is ***abroad***, the income is reported for assessment and taxed at the ***special tax rate of 25 percent*** (as of 1 January 2016: 27.5 percent). Investment income tax is not levied on Austrian dividends that were already taxed before being received by the investment fund (effectively indirect definitive discharge of the tax liability).

Capital gains distributed at the date of reporting are fully taxable. If the distribution occurs after four months, capital gains are tax-exempt as they have already been taken into account in the deemed distribution income. The Austrian Budget Accompanying Act of 2011 increased the tax base for retained capital gains. The percentage is 60 percent for fund financial years beginning in 2014 or later.

Upon disposal of fund units, the realized increase in value is also taxed at the investment income tax rate of 25 percent (as of 1 January 2016: 27.5 percent) or the special tax rate of 25 percent (as of 1 January 2016: 27.5 percent). However, fund units that have been acquired before January 1,2011 can still be sold tax-exempt. Deemed distribution income that is already taxed is added to the acquisition cost, tax-exempt distributions reduce the acquisition cost. If disposal of the units results in a loss, the loss can be reported for deduction during assessment, but cannot be carried forward.

	Reporting funds		*Non-reporting funds*		*Disposal gains for fund units acquired starting 1 January 2011*
	Reinvested earnings	Distribution	Reinvested earnings	Distribution	
Austrian securities account or paying agent	25% definitive investment income tax (as of 1 January 2016: 27.5 percent)		25% investment income tax (as of 1 January 2016: 27.5 percent) (definitive)	25% definitive investment income tax (as of 1 January 2016: 27.5 percent)	
Foreign securities account or paying agent	Assessment at special tax rate of 25% (as of 1 January 2016: 27.5 percent)				

7. Real estate taxation

The *1st Austrian Stability Act of 2012* *(1. Stabilitätsgesetz 2012)* introduced general taxation of private real estate transfers effective with 1 April 2012.

Since 1 April 2012, real estate transfers have been taxable regardless of the time of acquisition or holding period. Income (capital gain) is subject to a "special tax rate" of 25 percent. This definitively discharges the income tax liability for real estate held as private assets. As of 1 January 2016, the special tax rate will be increased to 30 percent.

The special tax rate of 25 percent (as of 1 January 2016: 27.5 percent) also applies to real estate fixed assets held as business assets, but income must be reported on the tax return and is taxed at 25 percent during assessment. The special tax rate does not apply when:

- The property belongs to current assets
- Business activities focus on the transfer or use of real estate
- The property has been written down to going concern value
- Hidden reserves realized before 1 April 2012 were transferred to the property

The capital gain is the difference between the disposal proceeds and acquisition costs (adjusted for construction costs, repair costs and depreciation). Income-related expenses in connection with the transfer are not deductible, except for expenses incurred for calculation of the real estate tax by the representatives of the parties or notification of the tax authorities. In addition and until the 2015 tax assessment, an annual two percent deduction for inflation can also be included starting as of the eleventh year after acquisition (max. 50 percent). As of 2016, the deduction for inflation will cease to exist.

Special flat-rate estimates for determining capital gains apply to ***properties under the old tax regime***, i.e. properties for which the speculative holding period expired on or before 31 March 2012. For properties converted after 1987, 60 percent of the disposal proceeds are deemed to be income, corresponding to an effective tax rate of 15 percent. For all other properties, taxes are levied at a rate of 3.5 percent of the disposal proceeds. When this flat-rate estimate is used, no inflation deduction can be claimed for these properties. Upon request, capital gains can also be calculated using the method for properties under the new tax regime. As of the 2016 tax assessment, the effective rate of taxation will be increased to 18 percent in case of reclassifications, and to 4.2 percent in all other cases.

This can be summarized as follows:

	Property under old tax regime	*Property under new tax regime*
Definition	Speculative period expired, i.e. acquired **before 31 March 2002** held as private assets or business assets in the case of § 4(1) and § 4(3)	Speculative period not expired, i.e. acquired **after 31 March 2002**
Taxation as private assets	25% special tax rate (as of 1 January 2016: 30 percent) with definitive discharge of tax liability (general income tax rate upon request)	
Taxation as business assets	Assessment with 25% special tax rate (as of 1 January 2016: 30 percent) (general income tax rate upon request)	
Tax base	flat-rate of 60% of disposal proceeds if converted after 1987; otherwise 14% of disposal proceeds	Disposal gains

Owner-occupied homes or residential units that have been used as a primary residence for an uninterrupted period of at least two years since acquisition or manufacturing (completion) and until sale, or an uninterrupted period of five years during the last ten years prior to sale are exempt from taxation. Owner-constructed buildings are also exempt from taxation if they have not been used to earn income in the last ten years and the person disposing of the property is also the "builder" of the property. The exemption for properties alienated as the result of an official intervention is also maintained.

Payment of real estate income tax is linked to payment of the real estate transfer tax.

- If the real estate transfer tax is calculated by a representative of the parties (e.g. notary, lawyer) and transfer of the property generates income at the same time, then the tax authorities must be notified and the real estate income tax calculated and paid by the representative.
- If the real estate transfer tax is not calculated, when the return for real estate transfer tax is filed, the tax authorities must be informed whether transfer of the property generated income. The taxpayer must make a "special advance payment" for this income.

Payment of the real estate income tax by the representatives of the parties definitively discharges the tax liability. If a special advance payment is made, the income must be reported in the income tax return. This also applies to real estate held as business assets.

Positive and negative income can only be offset during income tax assessment, and the special tax rate of 25 percent (as of 1 January 2016: 30 percent) continues to apply. Half of any remaining loss can be offset against the total gain from rental and leasing. As of the 2016 tax assessment, a remaining loss of up to 60 percent is capable of being offset. It can be apportioned in the non-operating area among 15 years. Losses may not be offset against business income if the special tax rate applies.

8. Deductions

Profit allowance for business income

Natural persons can claim a ***profit allowance*** for business income types. Investment income taxed at the special tax rate of 25 percent (as of 1 January 2016: 30 percent) and gains on the disposal of businesses, business units or partnership shares are, however, excluded from the tax base for the profit allowance.

The profit allowance is divided into a basic allowance and an investment-based profit allowance. The ***basic allowance*** can be claimed for 13 percent of profits (max. 3,900 Euro), regardless of the investments made. In addition, an ***investment-based profit allowance*** of 13 percent can be claimed for investments in eligible depreciable assets or domestic and foreign residential construction bonds *(Wohnbauanleihen)*. The profit allowance is:

- Up to 175,000 Euro of the tax base 13%
- For the next 175,000 Euro of the tax base 7%
- For the next 230,000 Euro of the tax base 4.5%

As a result, the maximum profit allowance that can be claimed each financial year is 45,350 Euro.

The following are eligible assets:

- Depreciable fixed assets with a normal usable life of at least four years that are used in an Austrian permanent establishment or in the territory of the EU/EEA.
- Domestic convertible bonds issued by AGs to promote residential construction *(Wohnbauanleihen)* and foreign bonds of this nature that serve to promote residential construction in Austria, originate in the EU or a third country that offers comprehensive administrative assistance, and are held as business assets for at least four years[12].

The investment-based profit allowance is limited by the size of the investments made in the financial year in question.

No investment-based profit allowance is available for:

- Passenger cars and station wagons (except for driving school vehicles or commercial passenger vehicles)
- Aircraft
- Low-value assets
- Used assets
- Assets acquired by a company controlled by the taxpayer
- Assets for which a research subsidy has been claimed

In the case of partnerships, the entire profit allowance is available to the partners on a pro rata basis (based on their profit participation shares). Taxpayers that use flat-rate estimates for all or part of their profits can only claim the basic allowance, not the investment-based allowance. If eligible assets are held as fixed assets for less than four years, the investment-based profit allowance claimed must, as a rule, be recognized as an addition to profits in the year of disposal.

Transfer of hidden reserves

Natural persons can transfer ***hidden reserves*** that are revealed at the time an asset is sold (sale price greater than the carrying amount) to the acquisition cost of newly acquired assets. The following conditions must be satisfied for this to be possible:

- The asset must have belonged to the fixed assets of the company ***for at least seven years*** at the time of disposal (the period for real estate is 15 years if hidden reserves were previously transferred to it).
- The newly acquired asset to which the hidden reserves are to be transferred must be used in an ***Austrian permanent establishment***.

Hidden reserves may also be transferred if the asset leaves the business assets as a result of *force majeure* or an official intervention. The holding period of seven or fifteen years does not apply in this case.

A variety of restrictions apply to the transfer of hidden reserves. For example, hidden reserves can only be transferred to the acquisition cost of land if the hidden reserves also come from the disposal of land.

Hidden reserves cannot be transferred to the acquisition cost of businesses, business units, partnership interest or financial assets. In addition, hidden reserves from the disposal of businesses, business units, or partnership interest may not be transferred to other assets. If hidden reserves cannot be transferred to newly acquired assets in the year of disposal, they can be transferred to a ***tax-exempt reserve*** (transfer reserve). This transfer reserve can be transferred to the acquisition cost of newly acquired assets within a period of twelve months (24 months

12 This applies to financial years that end after 30 June 2014 and begin before 31 December 2016.

in the case of force majeure or official intervention) of the date of disposal of the asset. If a transfer is not possible within this period, the transfer reserve must be reversed and recognized as an addition to profit.

Income-related expenses, special expenditures and other items of deduction Income-related expenses are expenses or outlays for acquiring, securing or preserving income. These include, for example, expenses for tools, contributions for compulsory insurance, compulsory contributions to statutory special-interest groups and expenses for training and advanced training. Income-related expenses may be deducted from taxable income. An annual lump-sum deduction of 132 Euro may be claimed for self-employment income without supporting documentation. Expenses in excess of this amount can be claimed if supporting documents are available.

Contributions to voluntary health, accident and pension insurance, voluntary contributions to pension funds and expenses for the creation or renovation of residential living space are considered ***special expenses***. An annual flat-rate allowance of 60 Euro can be claimed for these. If proof of higher payments can be provided, a standard maximum deduction of 2,920 Euro per year can be claimed. This increases if the taxpayer is entitled to the sole-earner or single-parent credit or has at least three children. In each case, however, only a quarter of the special expenses actually incurred can be deducted. This deduction can be made until 2020 for contracts concluded prior to 1 January 2016. In other cases, these special expenditures can no longer be deducted as of 1 January 2016.

Church contributions can be claimed as special expenses (*Sonderausgaben*) up to a maximum amount of 400 Euro per year. Expenses for tax advice are fully deductible. Cash donations to certain eligible organizations pursuing charitable causes may be claimed up to a maximum of ten percent of income. Church contributions and voluntary donations are as of 2016 no longer to be reported to taxation authorities via tax returns. This is because these will be automatically taken into account.

Taxpayers forced to incur ***extraordinary expenses*** (*außergewöhnliche Belastungen*) may be able to deduct them in certain cases. The economic capacity of the taxpayer must be significantly impaired as a result, with expenses exceeding a minimum threshold of six to twelve percent of income, depending on the amount of income. No minimum threshold applies in the case of catastrophic damages. Childcare expenses may be claimed up to a maximum amount of 2,300 Euro per child until the age of ten. The childcare must be provided by a public childcare institution or individuals with the proper educational qualifications.

A number of ***credits*** can be deducted from the income tax calculated. Employees can claim a commuter credit (*Verkehrsabsetzbetrag*) of 291 Euro per year and an employee credit (*Arbeiternehmerabsetzbetrag*) of 54 Euro per year. The pensioner credit is equal to 400 Euro. The Tax Reform of 2015 stipulates that, as of 1 January 2016, the employee credit will be included in the commuter credit. The latter will be increased at the same time to 400 Euro. Taxpayers with at least one child who have been married or have had a registered partner for more than six months of the calendar year are entitled to the sole-earner credit (*Alleinverdienerabsetzbetrag*) of 494 Euro for one child and 669 Euro for two children if their partner has an annual income of no more than 6,000 Euro. The annual single-parent credit (*Alleinerziehendeabsatzbetrag*) is 494 Euro for one child and 669 Euro for two children. In addition, taxpayers receiving the family allowance (*Familienbeihilfe*) are entitled to a monthly child credit (*Kinderabsetzungsbetrag*) of 58.40 Euro. Persons providing statutory maintenance for a child who is not a member of their household are entitled to a maintenance credit (*Unterhaltsabsetzbetrag*) of 29.20 Euro per month.

9. Flat-rate estimates

There are a variety of options available for making flat-rate estimates of income-related expenses and operating expenses that allow these expenses to be deducted without records that show the actual expenses paid.

With respect to income-related expenses, the Austrian Federal Ministry of Finance issued a regulation with average rates for income-related expenses of employees in certain occupational groups, including, for example, artists, journalists, musicians, forestry workers, building caretakers, members of city, municipal and local government councils, and expatriates. The average rate is applied to gross pay less tax-exempt pay and other remuneration that is not subject to payroll tax. It must be noted that no other income-related expenses can be claimed.

In the business area, a distinction is made between the statutory basic flat-rate deduction and industry-specific flat-rate deductions. As a rule, flat-rate deductions can only be claimed if there is no record-keeping requirement and accounts are not voluntarily maintained. To claim a deduction, a certain sales limit must not be exceeded and the actual amount of sales must be determined.

The statutory basic flat-rate deduction can be claimed by all taxpayers with self-employment income or income from business activities whose sales do not exceed 220,000 Euro. Profits must be determined in accordance with § 4 (3) of the Austrian Income Tax Act (cash-basis accounting). The average rate is six percent for income from providing commercial and technical advice, writing, presenting and scientific activities and for shareholder directors, and twelve percent in other cases. In addition, the actual expenses for goods, raw materials and supplies, salaries (incl. non-wage personnel costs), third party pay and compulsory third party salary as well as compulsory insurance may also be claimed.

Separate flat-rate deductions are provided for certain industries. These can also only be claimed if a certain sales limit is not exceeded, there is no record-keeping requirement and accounts are not voluntarily maintained. Industry flat-rates are available for the restaurant and accommodation industry, food retail and general stores, druggists sales representatives, artists, writers and athletes. A regulation also exists for flat-rate deductions for income from agriculture and forestry and non-record-keeping businesses.

10. Assessment procedure

The calendar year is generally the assessment period for income tax. For taxpayers with income subject to payroll tax, the law provides an exhaustive list of situations in which an assessment is required. An assessment can also be performed at the taxpayer's request.

An assessment is required, for example, when taxpayers with income subject to payroll tax also earn more than 730 Euro in income that is not subject to payroll tax. Up to 22 Euro in investment income is disregarded in this connection (de minimis limit). An assessment is also required if incomes subject to payroll tax are received from two or more relationships of employment. An assessment must also be performed if the sole-earner/single-parent credit is applied in regular payroll accounting when the requirements are not satisfied. As of the 2016 tax assessment, a "negative tax" amounting to 50 percent of the social insurance contributions – coming at most to 400 Euro – is to be refunded. This rule especially applies to low-income employees who do not pay income tax. With this already taking effect in 2015, the negative tax of 110 Euro is to be doubled to 220 Euro. These cases of credit balances issuance are to use wage reporting cards to perform an automatic employee tax assessment.

An assessment can be requested up to five years after the end of the assessment period. This is normally done by filing a tax return. The request allows the deductions for income-related expenses, special expenses, further extraordinary expenses, and the sole-earner/single-parent credits to be claimed. An assessment can also be performed if the employee credit leads to negative income tax or a loss for other income.

Tax returns filed electronically must be submitted by the end of June the following year. If the official form is used, the deadline is the end of April. As a rule, every taxpayer must pay income tax by installments. In the case of employment income, installment payments are only required if the 730 Euro limit is exceeded or two or more incomes subject to payroll tax are received at the same time but are taxed separately. The tax office sends a notice specifying the installment payments that must be paid quarterly.

11. Partnerships

Partnerships are contractual agreements by two or more persons to perform economic activities under a common company name that appears as a single legal entity in legal relations but does not have its own legal personality. Partnerships include the ***OG (offene Gesellschaft – general partnership)*** and ***KG (Kommanditgesellschaft – limited partnership)***, with at least one of the partners having unlimited liability to the company's creditors. Partnerships are formed by articles of association without any formal requirements. OGs and KGs cannot enter into relationships with third parties until registered in the company register.

Partnerships are not subject to income tax themselves. The profit or loss of a partnership is determined by a ***single separate assessment*** and attributed directly to the partners. A loss can be offset against other income or carried forward if applicable in accordance with general provisions. Taxation at the partner level is performed using progressive tax rates as for natural persons. As of the 2016 tax assessment, entrepreneurs also owning capital in the enterprise (such as atypical silent partners) that are natural persons are subject to restrictions imposed on the offsetting of and compensation for loss. Like natural persons, partnerships can earn business or non-business income (mainly rental and lease income). The information provided with respect to natural persons also applies here.

12. References

Please refer to the information provided in Part I on corporations concerning special aspects of operating expenses, special international aspects, tax concessions, the VAT system and other taxes.

Deloitte Tax Wirtschaftsprüfungs GmbH
A-1010 Vienna, Renngasse 1/Freyung
Tel: +43 (0)1 537 00-0
E-Mail: office@deloitte.at
www.deloitte.at

AUSTRIAN BUSINESS AGENCY
A-1010 Vienna, Opernring 3
Tel: +43 (0)1 588 58-0
Fax: +43 (0)1 586 86 59
E-Mail: office@aba.gv.at
www.investinaustria.at