

International Tax Austria Highlights 2021

Updated January 2021



Recent developments

For the latest tax developments relating to Austria, see [Deloitte tax@hand](#).

Investment basics

Currency: Euro (EUR)

Foreign exchange control: No restrictions are imposed on the import or export of capital. Repatriation payments may be made in any currency. Both residents and nonresidents may hold bank accounts in any currency.

Accounting principles/financial statements: UGB (Austrian Commercial Code), IAS/IFRS. UGB financial statements in EUR must be prepared annually.

Principal business entities: These are the public/private limited liability company, partnership, sole proprietorship, and branch of a foreign corporation.

Corporate taxation

Rates

Corporate income tax rate	25%
Branch tax rate	25%
Capital gains tax rate	0%/25%

Residence: A corporation is resident if it is incorporated in Austria or managed and controlled in Austria.

Basis: Residents are taxed on worldwide income; nonresidents are taxed only on Austrian-source income. Branches generally are taxed in the same way as subsidiaries.

Taxable income: Corporation tax is imposed on a company's profits, which consist of business/trading income, passive income, and capital gains. Normal business expenses may be deducted in computing taxable income. Interest on debts obtained to acquire a participation is not deductible if the acquisition is intragroup. Interest and royalties paid to group companies that are subject to an effective or statutory tax rate of less than 10% are not deductible. Regarding the newly introduced interest limitation rule and anti-hybrid provisions, see "Interest deduction limitations" and "Hybrids," below.

Rate: The corporate income tax rate is 25%.

Surtax: There is no surtax.

Alternative minimum tax: There is an annual minimum corporate income tax of EUR 1,750 for a limited liability company and EUR 3,500 for a joint stock company.

Taxation of dividends: Dividends received from an Austrian resident company are tax exempt. Portfolio dividends (i.e., where there is a participation of less than 10%) received from a type of company listed in the EU parent-subsidiary directive, or a nonresident company comparable to an Austrian company that is resident outside the EU and where there is a broad exchange of information clause in a tax treaty between Austria and the nonresident's country, are exempt from corporate tax (domestic/EU/non-EU portfolio dividend exemption).

Dividends received from a nonresident company that does not satisfy the above criteria are tax exempt if the following criteria are met (international participation exemption): (i) the nonresident is a company comparable to an Austrian company or a type of company listed in the EU parent-subsidiary directive; (ii) the parent company holds directly or indirectly at least 10% of the equity capital of the subsidiary; and (iii) the minimum 10% shareholding is held continuously for at least one year.

Capital gains: Capital gains generally are taxed at the same rate as ordinary income. Under the international participation exemption, gains from the sale of a participation in a nonresident company are exempt unless the resident company has exercised an option to have capital gains treated as taxable income.

Losses: Losses may be carried forward indefinitely, but generally may be offset against only 75% of the profits of a given year. The carryback of losses generally is not permitted. Upon application, taxpayers may claim a one-time carryback of losses incurred in the 2020 tax year to 2019 and, to the extent the loss is not fully offset against 2019 profits, to 2018 subject to additional requirements. The total amount of the carryback is capped at EUR 5 million and limited to EUR 2 million for 2018.

Foreign tax relief: Depending on the applicable tax treaty, foreign tax paid may be credited against Austrian tax, but the credit is limited to the amount of Austrian tax payable on the foreign income.

Participation exemption: Intercompany dividends are exempt under the domestic/EU/non-EU portfolio dividend and international participation exemptions (see "Taxation of dividends," above).

As noted above, under the international participation exemption, capital gains on the sale of qualifying participations are tax exempt unless the resident company has exercised an option to have capital gains treated as taxable income.

The EU/non-EU portfolio dividend exemption and the international participation exemption do not apply if the dividends are tax deductible at the level of the distributing nonresident entity.

As from 1 January 2019, the switch-over clause in the participation exemption (i.e., the switch from the exemption method to the credit method for dividends and capital gains) was amended to bring it in line with new controlled foreign company (CFC) rules introduced as from that date (see under "Controlled foreign companies," below). For financial years starting on or after 1 January 2019, the credit method applies to distributions from international participations and qualified portfolio shareholdings (above 5%) where the foreign subsidiary derives low-taxed passive income of more than 50% of total income in the relevant year. The switch-over mechanism does not apply where the profits distributed already have been attributed to and taxed in the hands of the Austrian controlling parent company under the CFC regime.

Holding company regime: See "Taxation of dividends" and "Participation exemption," above.

Incentives: Various incentive programs are available, including a 14% cash premium on certain R&D expenses. Due to the COVID-19 pandemic, further incentive programs have been implemented.

Compliance for corporations

Tax year: The tax accounting period generally may not exceed 12 months.

Consolidated returns: Companies may form a consolidated group in Austria. To be eligible to file a consolidated return, a parent company must hold more than 50% of the affiliated company. Nonresident companies resident in the EU or in countries that have concluded broad mutual assistance agreements with Austria also may participate in a tax group, and their losses may be used in Austria. However, foreign losses of nonresident companies are subject to a recapture rule if the nonresident leaves the Austrian tax group, changes its business significantly compared to the year in which the losses were incurred, or subsequently is liquidated. An annual corporate income tax return must be filed for each member of the group subject to unlimited tax liability in Austria, as well as for the head of the group.

Filing and payment: Advance payments of corporate tax are required in four installments. The tax return must be filed electronically by 30 June of the year following the tax year. Filing deadlines may be extended if the corporation is represented by a tax adviser.

Penalties: Penalties apply for failure to comply.

Rulings: Taxpayers may request nonbinding rulings on the tax consequences of a proposed transaction, and binding rulings on issues relating to restructurings, tax groups, transfer pricing, international tax law, VAT, and abuse of law. For a binding ruling, the taxpayer will be charged a fee of up to EUR 20,000 by the tax authorities.

Individual taxation

Rates		
Individual income tax rate	Taxable income	Rate
	Up to EUR 11,000	0%
	EUR 11,001-EUR 18,000	20%
	EUR 18,001-EUR 31,000	35%
	EUR 31,001-EUR 60,000	42%
	EUR 61,001-EUR 90,000	48%
	EUR 90,001-EUR 1 million	50%
	Over EUR 1 million	55%
Capital gains tax rate		27.5%/30%

Residence: Individuals are resident if they are domiciled or have a habitual abode in Austria. A habitual abode is assumed if the individual stays in Austria for more than six months.

Basis: Austrian resident individuals are taxed on their worldwide income; nonresidents are taxed only on Austrian-source income.

Taxable income: Taxable income is the sum of income from all sources, including income from employment, the carrying on of a business or profession, and income from investments.

Rates: Rates are progressive up to 55%. Certain types of investment income are not included in the computation of the taxpayer's income, but are subject to a special withholding tax of 27.5% (25% for certain interest on cash deposits and nonsecuritized claims with credit institutions).

Capital gains: Capital gains relating to investments are subject to a 27.5% capital gains tax, and capital gains from real estate are subject to a 30% tax. The alienation of real estate acquired before 1 April 2002 usually is subject to more favorable rules.

Deductions and allowances: Deductions from income are available for various losses, special and exceptional expenses, and for disabled individuals and farm and forestry workers. Allowances based on a taxpayer's personal circumstances are replaced by tax credits (for sole earners, sole educators, and employees).

Foreign tax relief: Depending on the applicable tax treaty, foreign tax paid may be credited against Austrian tax, but the credit is limited to the amount of Austrian tax payable on the foreign income.

Compliance for individuals

Tax year: The tax year is a calendar year.

Filing status: Each taxpayer must file a return; joint filing is not permitted.

Filing and payment: Tax on employment income is withheld by the employer. The taxpayer must pay advance income tax in four installments. The tax return must be filed electronically by 30 June of the year following the assessment year. Filing deadlines may be extended if the individual is represented by a tax adviser.

Penalties: Penalties apply for failure to comply.

Rulings: Taxpayers may request nonbinding rulings on the tax consequences of a proposed transaction, and binding rulings on issues relating to restructurings, tax groups, transfer pricing, international tax law, VAT, and abuse of law. For a binding ruling, the taxpayer will be charged a fee of up to EUR 20,000 by the tax authorities.

Withholding tax

Rates				
Type of payment	Residents		Nonresidents	
	Company	Individual	Company	Individual
Dividends	0%/25%	27.5%	0%/25%/27.5%	27.5%
Interest	0%/25%	27.5%	0%/25%/27.5%	27.5%
Royalties	0%	0%	0%/20%	20%
Fees for technical services	0%	0%	20%	20%

Dividends: Dividends paid to another Austrian company are exempt if the recipient company holds at least 10% of the shares in the distributing company; otherwise, the rate is 25%. A 27.5% rate applies to dividends paid to a resident individual.

Dividends paid to a nonresident company are subject to a 25% withholding tax (for corporations) and 27.5% (for all others), unless the rate is reduced under a domestic provision or a tax treaty, or the dividends are exempt under the EU parent-subsidiary directive. A refund of the withholding tax is possible for EU/European Economic Area (EEA) parent companies if the withholding tax cannot be credited in their residence state under a tax treaty. Under certain conditions, a refund is also available to parent companies in non-EU/EEA jurisdictions. A 27.5% rate applies to dividends paid to a nonresident individual, unless the rate is reduced under a tax treaty.

Interest: Interest paid to a resident company is subject to a 25% withholding tax. If the company confirms in writing to the interest-paying institution that the interest income is taxed at 25% as part of its business income, no taxes generally are withheld. A 27.5% rate applies to interest paid to a resident individual.

No withholding tax is levied on loan interest paid to a nonresident company. Payments made to a nonresident silent partner in an Austrian company are subject to 27.5% withholding tax (25% if the silent partner is a corporation), unless the rate is reduced or the payments are exempt under a tax treaty or the EU interest and royalties directive. A 27.5% rate applies to interest paid to a nonresident individual, unless the rate is reduced under a tax treaty.

Royalties: No withholding tax is levied on royalties paid to a resident. Royalties paid to a nonresident are subject to a 20% withholding tax, but the rate may be reduced or the payments may be exempt under a tax treaty or the EU interest and royalties directive.

Fees for technical services: No withholding tax is levied on fees for technical services paid to a resident. Fees for technical services paid to a nonresident are subject to a 20% withholding tax, unless the rate is reduced or the payments are exempt under a tax treaty.

Branch remittance tax: Austria does not impose a branch remittance tax.

Anti-avoidance rules

Transfer pricing: Standardized transfer pricing documentation (a master file, local file, and country-by-country report) is required in line with the OECD BEPS recommendations. Penalties of up to EUR 50,000 can be assessed if documentation requirements are not met. Apart from that, no special transfer pricing provisions exist, but the Ministry of Finance has issued guidance based on the OECD guidelines. Transactions between affiliated companies must be at arm's length. Taxpayers may obtain binding rulings on transfer pricing issues.

Interest deduction limitations: There are no specific thin capitalization rules, but, in accordance with case law, interest may be reclassified as a dividend in certain situations. The tax authorities usually accept a debt-to-equity ratio of 4:1 in tax audits, although this is not considered a safe harbor.

For financial years beginning after 31 December 2020, an interest limitation rule applies to limit the deductibility of "excessive borrowing costs" (i.e., an excess of borrowing costs over the taxpayer's interest income) that are greater than EUR 3 million and exceed 30% of the taxpayer's adjusted EBITDA. The rule does not apply to taxpayers that: (i) are not fully included in consolidated financial statements; (ii) do not have any associated enterprises; and (iii) do not have any foreign permanent establishments.

For tax groups, the interest limitation rule applies to the entire group. EBITDA and borrowing costs are calculated at the group parent level and comprised of results from all group members. Furthermore, the EUR 3 million de minimis threshold applies to the group as a whole (and not at an individual level).

Any excessive borrowing costs that cannot be deducted may (upon application) be carried forward for an unlimited period of time. Any excess EBITDA (i.e., EBITDA not set off by excessive borrowing costs) may be carried forward for five years.

If the equity ratio of the taxpayer is equal to or higher than the equity ratio of the group (within two percentage points) and all financial statements (i.e., stand alone and group) are prepared using the same accounting standards (as well as applying the same valuation methods), the interest limitation rule does not apply.

For loans concluded before 17 June 2016, the interest limitation rule does not apply through tax year 2025.

Controlled foreign companies: CFC rules attribute low-taxed passive income earned by controlled foreign entities to an Austrian parent company. Control is deemed to exist if an Austrian company owns directly or indirectly more than 50% of the shares or voting rights or is entitled to more than 50% of the profits.

The CFC rules apply if passive income (determined under Austrian tax provisions) exceeds one-third of the CFC's annual income. Passive income includes dividends, interest, royalties, and capital gains from shares (if the income would be subject to tax in the hands of an Austrian income recipient), finance lease income, income from banking and insurance activities (with certain exemptions), and income from settlement companies. Low taxation is presumed if the effective tax rate in the country of the CFC does not exceed 12.5%.

The CFC rules do not apply if the controlled foreign entity carries out a substantive economic activity supported by staff, equipment, assets, and premises.

Hybrids: In Austria, a special regulation implementing the hybrid mismatch provisions of the EU anti-tax avoidance directive into domestic law entered into force on 1 January 2020. Austria did not opt to delay the application of certain rules until 2022 but, as a rule, only the minimum requirements of the directive were implemented. A hybrid mismatch is, basically, considered to exist where expenses are deducted in one state and there is no taxation of the corresponding revenue in the other state (deduction/no inclusion) or where expenses can be deducted in more than one state (double deduction). The tax effects of such hybrid mismatches are essentially neutralized either by the disallowance of a deduction for the expenses in Austria or the inclusion of a corresponding amount of revenue in Austria.

Economic substance requirements: To claim immediate relief from withholding tax at source under the EU parent-subsidiary directive, the EU interest and royalties directive, or an applicable tax treaty, the recipient of the income must provide the Austrian payer entity a certificate of residence issued by the tax authorities of the recipient's jurisdiction and confirm to the Austrian payer entity in writing that it has (i) its own office; (ii) its own employees; and (iii) activity going beyond mere asset administration (i.e., active operations).

The existence or lack of substance also plays an important role in the case of issues concerning beneficial ownership and under the general anti-avoidance rule, but there are no statutory thresholds relating to substance for these purposes.

Disclosure requirements: See "Transfer pricing," above. In addition, Austria has transposed an EU directive ("DAC 6") into its domestic law that requires disclosures to be made to tax authorities in respect of certain cross-border tax advice. Although the directive states that it is aimed at "aggressive tax practices," it is broadly drafted and may require disclosure of common cross-border investment structures. The list of "hallmarks" requiring reporting under the Austrian legislation implementing the directive is based on the hallmarks listed in DAC 6 (with relevant arrangements dating back to 25 June 2018 requiring reporting). The reporting obligation generally applies to financial intermediaries but may be transferred to the taxpayer under certain conditions. This may be the case, e.g., where the intermediaries are bound by an obligation of professional secrecy (e.g., for tax advisors, public accountants, lawyers, or notaries) and act within their competencies.

Exit tax: Under the domestic tax law, the transfer of Austrian business assets or (parts of) a business outside Austria precluding or restricting Austrian taxation rights with respect to the (unrealized) built-in gains generally triggers exit taxation (under section 6, paragraph 6 of the Income Tax Act). The purpose of this provision is to ensure that built-in gains that have accrued in Austria are effectively taxed by the Austrian tax authorities and to implement the arm's length principle.

General anti-avoidance rule: Austria has a general anti-avoidance rule, which relies on the substance-over-form concept. In tax matters, the true economic substance of a transaction prevails over its formal appearance. Liability to tax cannot

be avoided or reduced by abusing the instruments of civil law. In cases of abuse, the tax authorities have the power to levy tax as if the transaction were structured in line with the true economic circumstances.

Value added tax

Rates	
Standard rate	20%
Reduced rate	0%/5%/10%/13%

Taxable transactions: VAT is levied at each stage of the production and distribution chain. In general, taxable supplies of goods or services within the Austrian territory that are carried out by a VAT entrepreneur, as well as intra-community acquisitions and imports of goods, fall within the scope of Austrian VAT.

Rates: The standard rate is 20%. A lower rate of 13% applies to cultural services, among other items; a 10% rate generally applies to accommodation, foodstuffs, pharmaceuticals, agricultural products, rent for residential purposes, and entertainment. Banking transactions are exempt, and a zero rate applies to exports. Due to the COVID-19 pandemic, a reduced VAT rate of 5% applies until 31 December 2021 to the supply of food and beverages in the hospitality industry, overnight stays in lodging establishments (e.g., hotels), and certain services in the cultural and publication sectors.

Registration: Austrian entrepreneurs whose annual turnover (reduced by certain VAT-exempt transactions) exceeds EUR 35,000 must register for VAT purposes.

Nonresidents that make taxable supplies of goods or services in Austria also are required to register.

Filing and payment: VAT returns are filed electronically on a monthly/quarterly basis. Annual returns must be filed electronically by 30 June of the year following the tax year. Filing deadlines may be extended if the entrepreneur is represented by a tax adviser.

Other taxes on corporations and individuals

Unless otherwise stated, the taxes in this section apply both to companies and individuals and are imposed at the federal level.

Social security: The employer is required to make pay-related social insurance contributions. The employer's contribution generally amounts to 21.23% of an employee's salary up to EUR 5,550 per month. The employee's corresponding contribution of 18.12% must be withheld by the employer and remitted to the social insurance agencies. For self-employed individuals, the social security contributions are slightly lower (20.73% for the employer and 17.62% for the employee).

Payroll tax: Municipalities levy a general payroll tax of 3% on total salaries and wages paid monthly by permanent establishments based in Austria. Other payroll-related taxes between 5.77% and 5.85% also must be paid.

Capital duty: Austria does not impose a duty on capital.

Real property tax: Municipalities impose an annual real estate tax of up to 0.2% on up to five times the assessed value of property.

Transfer tax: Transfers of real estate are subject to an acquisition tax of 3.5% of the consideration (plus a 1.1% registration fee with the land register). If there is no consideration, the real estate transfer tax and registration fee usually are based on the fair market value (with a tax rate between 0.5% and 3.5%). For certain privileged transactions

(e.g., reorganizations or transfers of at least 95% of the shares in a company holding Austrian real estate), a real estate transfer tax of 0.5% and the registration fee are based on the lower of: (i) three times the assessed value of the land plus the value of the building; (ii) standardized values provided by the Ministry of Finance; or (iii) the fair market value.

Stamp duty: Stamp duty is levied at a rate ranging from 0.8% to 2% on various transactions (e.g., the assignment of receivables, rent (but not for residential purposes) and lease contracts) if the transaction is evidenced in a stamp duty-relevant deed in Austria. Loan/credit contracts are not subject to stamp duty.

Net wealth/worth tax: Austria does not impose a net wealth/net worth tax.

Inheritance/estate tax: There is no inheritance tax. There is a statutory notification requirement for gifts. Transfers of real estate are subject to an acquisition tax of 3.5% of the consideration (2% for transfers of agricultural and forestry land between close family members), with the fair market value being the minimum (plus a 1.1% registration fee with the land register). If there is no consideration, the real estate transfer tax and the registration fee generally are based on the fair market value of the real estate. The tax rate ranges between 0.5% and 3.5%, depending on the value of the real estate.

Other: Austrian banks and foreign banks with an Austrian branch are subject to a banking tax based on the balance sheet total, reduced by equity and covered contributions. The banking tax applies to a tax base of more than EUR 300 million, at a rate of 0.024% to 0.029%. It is not tax deductible for corporate income tax purposes. Cap and floor sets apply.

Tax treaties: Austria has concluded over 90 tax treaties. The MLI entered into force for Austria on 1 July 2018. For further information on Austria's tax treaty network, visit [Deloitte International Tax Source](#).

Tax authorities: Revenue offices of the Austrian Ministry of Finance

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