

Austria



Background

The corporate tax rate is 25%.

Nature of incentives

Research tax credit: One of the incentives offered in Austria is a 12% volume based tax credit (10% for fiscal years commencing before 1 January 2016). There is no cap on the amount of in-house R&D expenditure eligible for the credit. The R&D tax credit is refundable to the extent the credit exceeds the amount of the company's tax liabilities. Consequently, the research credit can provide the equivalent of a cash grant for companies in a tax loss or low profit position.

Rate adjustments: For income from royalty payments related to self-developed intellectual property (IP) or capital gains from sale of self-developed IP, the tax rate is reduced by half for individual taxpayers (but not for corporations).

Eligible industries and qualifying costs

Eligibility is broad and is not limited to particular industries. The definition of research includes basic and applied research, as well as experimental development within the meaning of the Organization for Economic Co-operation and Development (OECD) Frascati Manual. Thus, software development also can be a qualified activity.

Qualified R&D activity, in general, is any systematic or intensive study undertaken in the field of science or technology with the objective of using the results of the study for the production of new or fundamentally improved materials, devices, products or processes.

Qualifying activities must be conducted systematically for the purpose of increasing knowledge and/or developing new applications. The R&D tax credit is also available if the R&D project is a failure or is terminated before reaching a successful conclusion.

Qualifying expenditure includes: capital investment, finance costs, staff costs, overhead, leasing costs, and subcontractor fees.

If subcontracted R&D is performed, the principal (the party funding the research), rather than the subcontractor, may opt to claim the qualifying expenses. The subcontractor must be a qualifying European Union (EU) / European Economic Area (EEA) institution and unrelated to the principal. The subcontractor fees that otherwise qualify for the research credit cannot exceed EUR 1M annually.

Grants and subsidies received by the taxpayer that are exempt from Austrian corporate income tax reduce otherwise qualified research expenses.

Austria's volume-based tax credit is increasing from 10% to 12% for fiscal years commencing on or after 1 January 2016.

IP and jurisdictional restrictions

The application for an expert opinion by the Austrian Research Promotion Agency is required for research credits relating to tax years beginning on or after 1 January 2012, evaluating the technical eligibility of the R&D activities performed. The application must be submitted electronically after the end of the fiscal year in which the tax credits would apply. Although the taxpayer must apply for the expert opinion by the filing date for the tax return, the expert opinion does not have to be obtained before the taxpayer can claim the credit on the tax return. A special expert opinion by the Austrian Research Promotion Agency will be issued confirming that the legal requirements for credit eligibility are fulfilled with respect to a particular R&D endeavor. However, the decision to grant the R&D tax credit to the tax payer still remains at the responsible tax office, which will only use expert opinion as a reference. Alternatively, the taxpayer can seek a pre-approval for future R&D endeavors covering the current year and up to three future fiscal years. In this case, a fee of EUR 1K must be paid. Existing patent protection of the results of the R&D activities or proof of the success of the R&D work is not required, nor are any restrictions imposed on the location of the IP. Research activities must be conducted in Austria. Subcontracted research must follow management and direction from an Austrian business or branch or a permanent establishment (PE) in Austria and the subcontractor must be based within the EU/EEA.

Austria's refundable tax credit must be evaluated by the Austrian Research Promotion Agency and the responsible tax office.

Other concerns

Attractive grant programs exist for companies in the materials and production, energy and environment, life sciences, information and communication technology, mobility and safety and security, and human resources sectors.

Austria is an active member of the European Research Area, and a proactive partner in bilateral R&D endeavors, e.g., with China, Japan, South Korea, Russia and the United States.

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Austria (cont.)

Nature of benefit available	Income tax benefit generally available	Specific pre-approval required from government	Refundable/ Carryforward	
Tax credit	12% volume-based refundable credit on all qualifying R&D-related expenditure to the extent credit exceeds the amount of tax liabilities 10% for fiscal years commencing before 1 January 2016). Tax rate is reduced for income from royalty payments related to self-developed IP or capital gains from the sale of self-developed IP for individual taxpayers.	Technical evaluation from Austrian Research Promotion Agency required for research credits relating to tax years beginning on or after 1 January 2012.	Excess credits are refundable to the extent that credit exceeds amount of tax liabilities.	
R&D activities must occur in country		Cap/Limitations on benefits	IP must be retained in country	Industry eligibility restriction
Activities must occur in Austria. Subcontracted research activities may occur in a branch or a plant within EU or EEA, but the activity must be based on management direction from the Austrian taxpayer.		Cap on subcontracted research expenditure of EUR 1 M annually, with a maximum credit of EUR 120K (100K for fiscal years commencing before 1 January 2016).	No	No