

Austria Country Profile

EU Tax Centre

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Key tax factors for efficient cross-border business and investment involving Austria

EU Member State Yes

Double Tax Treaties With:

Albania	Estonia	Lithuania	Serbia
Algeria	Faroe Islands	Luxembourg	Singapore
Armenia	Finland	Macedonia	Slovakia
Australia	France	Malaysia	Slovenia
Azerbaijan	Georgia	Malta	South Africa
Bahrain	Germany	Mexico	Spain
Barbados	Greece	Montenegro	Sweden
Belarus	Hong Kong	Moldova	Switzerland
Belgium	Hungary	Mongolia	Taiwan
Belize	Iceland	Morocco	Tajikistan
Bosnia & Herzegovina	India	Nepal	Thailand
Brazil	Indonesia	Netherlands	Tunisia
Bulgaria	Iran	New Zealand	Turkey
Canada	Ireland	Norway	Turkmenistan
Chile	Israel	Pakistan	UAE
China	Italy	Philippines	UK
Croatia	Japan	Poland	Ukraine
Cuba	Kazakhstan	Portugal	US
Cyprus	Rep. of Korea	Qatar	Uzbekistan
Czech Rep.	Kuwait	Romania	Venezuela
Denmark	Kyrgyzstan	Russia	Vietnam
Egypt	Latvia	San Marino	
	Liechtenstein	Saudi Arabia	

Most important forms of doing business

Limited Liability Company (GmbH) and Stock Company (AG).

Legal entity capital requirements	The statutory minimum share capital is EUR 35,000 for a GmbH and EUR 70,000 for an AG. At least 50% of the share capital has to be paid in cash before registration.
Residence	A company is resident if either its legal seat or its place of management is in Austria. Resident companies are taxed on their worldwide income. Non-resident companies are taxed only on their Austrian source income.
Compliance requirements for CIT purposes	Deadline for filing tax return is April 30 (in hardcopy) or June 30 (via internet) of the following tax year; exemptions apply if the return is prepared by a professional tax advisory firm.
Corporate income tax rate	The standard corporate income tax rate is 25 percent.
Withholding tax rates	<p>On dividends paid to non-resident companies</p> <p>25 percent (exemption for payments to certain EU affiliates).</p> <p>On interest paid to non-resident companies</p> <p>0 percent. As of March 1, 2014, interest and royalties paid to foreign related parties are non-deductible if the income derived from the interest and royalty payments is not taxed in the recipient's state or is subject to a tax rate of less than 10 percent.</p> <p>On patent royalties and certain copyright royalties paid to non-resident companies</p> <p>20 percent (exemption for payments to certain EU affiliates).</p> <p>On fees for technical services</p> <p>20 percent if work is executed in Austria.</p> <p>On other payments</p> <p>No</p> <p>Branch withholding tax</p> <p>No</p>
Holding rules	<p>Dividend received from resident/non-resident subsidiaries</p> <p>Full exemption. For foreign participations: no minimum participation or minimum holding period is required subject to minimum taxation of distributing company (and exchange of information agreement for non-EEA companies). For domestic participations: no minimum participation or holding required.</p>

Capital gains obtained from resident/non-resident subsidiaries

Capital gains on the disposal of shares in non-resident companies may qualify for a participation exemption (under certain conditions). Option for taxable status available. Domestic capital gains are always taxed at 25 percent.

Tax losses

Losses may be carried forward indefinitely. No carry-back is allowed. Losses carried forward may be lost after a substantial change in the commercial identity (three characteristics are taken into account for evaluating whether the commercial identity has changed substantially: change of ownership in the company's share capital, change of economic structure, change of organizational structure) or after a reorganization. Minimum taxation: 75 percent of the annual income can be sheltered by tax loss carry-forward, whereas 25 percent is subject to an immediate tax liability.

Tax consolidation rules/Group relief rules

Group companies (domestic and, under certain circumstances, non-resident companies) can consolidate their profits and losses. Losses of non-resident members can be offset against a maximum of 75 percent of the profits of resident members (from 2015 onwards), profits of non-resident group members are not consolidated. Applies only to group members from EU Member States and to companies from countries with which Austria has entered into full administrative assistance agreements.

Registration duties

Insignificant

Transfer duties

On the transfer of shares

None

On the transfer of land and buildings

Real estate transfer tax is triggered when (i) real estate is directly transferred or (ii) at least 95 percent of the company shares are transferred to one shareholder or a group of companies subject to group taxation.

Rate: 3.5 percent of the consideration if real estate is directly transferred; if there is a transfer of 95 percent to one shareholder or a group of companies, the tax base is formed by the real estate value (usually below the fair market value) and a reduced tax rate of 0.5 percent applies. Special provisions apply to transfers of interest in partnerships.

Stamp duties

Yes, the rate depends on the type of contract.

Real estate taxes

Yes, real estate transfer tax of 3.5 percent plus 1.1 percent land registry fee of the consideration and real estate tax between 0.5 permille and 1.5 permille on the assessed value.

Controlled Foreign Company rules

Austria does not have specific CFC rules. However, there are provisions which impose restrictions on subsidiaries in low tax countries.

General anti-abuse legislation

Based on Supreme Court rulings, the general anti-abuse provision may also be applied to low-tax foreign subsidiaries. In that case, the profits earned by the foreign subsidiary are attributed to the domestic parent.

Qualifying participations (minimum 10 percent minimum holding of 1 year)

No exemption of income (dividends, capital gains) from international participations if the foreign corporation derives mainly passive income and the applicable tax rate is less than 15 percent.

Portfolio participations (participation of less than 10 percent)

Dividends are not tax-exempt, if the tax rate applicable to the foreign corporation is less than 15 percent.

Deductible dividends of foreign subsidiaries

If dividends of a foreign subsidiary can be deducted at the level of the subsidiary, they are not tax-exempt at the level of the receiving parent.

Transfer pricing rules

General transfer pricing rules

As of January 1, 2016 new transfer pricing rules apply in Austria. The rules have been laid down in legally binding legislation - the Verrechnungspreisdokumentationsgesetz (VPDG). By way of the VPDG, Austria transposed Council Directive (EU) 2016/881 and BEPS Action 13 into national law.

CbCR: Applies to MNEs with annual consolidated group revenue equal to or exceeding EUR 750,000,000 in the preceding year. Regulations extend to subsidiary entities.

Master File and Local File: Under the new legislation, an Austrian entity falls under the MF and LF documentation requirement if it had a turnover exceeding EUR 50,000,000 in each of the two preceding years. For entities not exceeding this threshold, the documentation rules would remain unchanged, i.e., these entities would have to prepare transfer pricing documentation based on the administrative guidelines which were issued by the Federal Ministry of Finance in 2010 and refer to the OECD Guidelines, the OECD approach and various court decisions. Although not legally binding, they serve as a guideline for tax audits.

Documentation requirement?

Country-by-Country Report, Master File and Local File according to the VPDG (see above).

The non-binding transfer pricing guidelines also include detailed documentation requirements. An implicit obligation relating to detailed documentation on

transfer prices is also derived from general provisions of the Federal Fiscal Code.

Thin capitalization rules

No specific thin capitalization legislation. According to administrative practice and court rulings, a debt-to-equity ratio of between 3:1 and 4:1 is recommended.

General Anti-Avoidance rules (GAAR)

A general anti-avoidance rule is included in the Federal Fiscal Code implementing a 'substance over form' principle.

Specific Anti-Avoidance rules/Anti-Treaty Shopping Provisions/Anti-Hybrid rules

Qualifying participations (minimum 10 percent, minimum holding of 1 year)

No exemption of income (dividends, capital gains) from international participations if the foreign corporation derives mainly passive income and the applicable corporate tax rate is less than 15 percent.

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Advance Ruling system

Yes, but limited to certain issues (transfer pricing, reorganization tax matters and tax groups).

IP / R&D incentives

R&D tax credit of 12 percent of the qualifying costs incurred for R&D. For economic years starting after December 31, 2015, the R&D tax credit is increased to 14 percent.

Other incentives

No

VAT

The standard rate is 20 percent and the reduced rates are 13 and 10 percent.

Other relevant points of attention

No

Source: Austrian tax law and local tax administration guidelines, updated 2018.

Contact us

Ulf Zehetner

KPMG in Austria

T +43 1 31332 414

E UZehetner@kpmg.at

Christoph Plott

KPMG in Austria

T +43 1 31332 697

E CPlott@kpmg.at

Michael Petritz

KPMG in Austria

T +43 1 31332 3304

E MPetritz@kpmg.at

kpmg.com



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