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 the following countries, territories and jurisdictions:

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

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. For a GmbH the share capital can be reduced to EUR 10,000 (EUR 5,000 to be paid in cash). This founding privilege exists for a maximum of ten years from registration of the GmbH in the commercial register.
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	On dividends paid to non-resident companies 25 percent (exemption for payments to certain EU affiliates). On interest paid to non-resident companies 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. On patent royalties and certain copyright royalties paid to non-resident companies 20 percent (exemption for payments to certain EU affiliates). On fees for technical services 20 percent if work is executed in Austria. On other payments No. Branch withholding tax No.
Holding rules	Dividend received from resident/non-resident subsidiaries 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.

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 of a max of 1 percent on the assessed value (varies between municipalities).

Controlled Foreign Company rules

Due to the ATAD, Austria had to introduce Controlled Foreign Company (CFC) rules. As of tax year 2019/2020 (financial years beginning after December 31, 2018), the CFC rules will apply when:

- a Austrian company either holds a direct or indirect participation of more than 50 percent of the capital or voting rights, or a share in profit of more than 50 percent in a foreign entity or PE and
- the income of the CFC consists of more than 1/3 of passive income and
- the effective tax burden of the CFC does not exceed 12.5 percent (foreign tax is compared to CIT that would have been due if it were subject to Austrian tax law).

Exceptions apply for:

- Entities with substantive economic activity.
- Entities with less than one third passive income.
- Financial undertakings with less than one third passive income from related parties.

Other provisions imposing restrictions on subsidiaries in low tax countries may be applicable.

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.

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 Master File and Local File 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. Amendments have been introduced regarding wording of the definition of "abuse" to be fully compliant with article 6 of ATAD (see new para 2 in section 22 "Bundesabgabenordnung"). The wording combines the main aspects of article 6 of ATAD with the main characteristics of the Austrian GAAR as it is interpreted by the Administrative Court and tax authorities.
Specific Anti-Avoidance rules/Anti Treaty Shopping Provisions/Anti-Hybrid rules	Qualifying participations (at least 5 percent of the equity of the subsidiary) Dividends are not tax-exempt (shift from exemption to credit method), if the foreign corporation derives mainly passive income and the effective corporate tax rate is less than 12,5 percent. CFC rules take precedence. 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. Restrictions on the deductibility of interest and royalties Interest and royalties paid to foreign related parties are not deductible if the income derived from the interest and royalties is not taxed in the recipient`s state or is subject to a tax rate of less than 10 percent. Hybrid arrangements For hybrid arrangements, provisions from the Directive ATAD 2 were transposed to provide measures against hybrid arrangements which results in a double deduction of expenses or a deduction of expenses without taxation of the corresponding income.
Advance Ruling system	Yes, but limited to certain issues (international tax law, reorganization tax matters, tax groups, VAT and the existence of tax abuse).

IP / R&D incentives	R&D tax credit of 14 percent of the qualifying costs incurred for R&D. For economic years starting before January 1, 2018, the R&D tax credit amounts to 12 percent. Special transitional regulations apply in case the financial year differs from the calendar year.
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.
Mandatory Disclosure Rules Updates	For country specific information and updates on the EU Mandatory Disclosure Rules please visit KPMG's EU Tax Centre's MDR Updates page.
COVID-19 Resources	An overview of tax developments being reported globally by KPMG member firms in response to the Novel Coronavirus (COVID-19) is available here. For further insight into the potential tax, legal and mobility implications of COVID-19, please refer to the dedicated KPMG page.

Source: Austrian tax law and local tax administration guidelines, updated 2020.

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