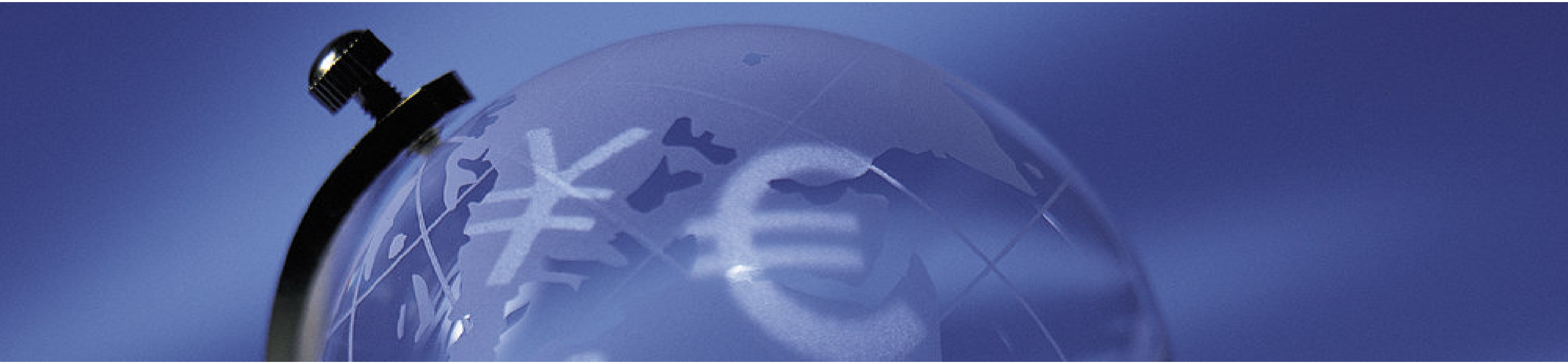

GGI EasyMeet - Düsseldorf

Taxation in Germany

Düsseldorf / Germany,
8. March 2013

Agenda

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- **Tax System in Germany**
  - Company Taxation

Tax System in Germany

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Germany offers a competitive system of company taxation

The average tax burden on companies is less than 30 percent

In some regions, due to a locally variable rate of trade tax, it is under 23 percent

This means that company taxation in Germany is clearly competitive with other leading industrial nations

Company Taxation

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Germany does not have a consistent nationwide tax rate for companies

For corporations, the average overall tax burden is just below 30 percent

<u>Companies are usually taxed on two levels:</u>

Level 1:

Corporations - such as the limited liability company (GmbH) or the stock corporation (AG) - are subject to corporate income tax (*Körperschaftssteuer*)

partnerships are subject to personal income tax (*Einkommenssteuer*).

Level 2:

All business operations - corporations and partnerships alike - are subject to the trade tax (*Gewerbesteuer*), which is imposed by local municipalities (i.e. the town or city where the company is based).

Corporate Income Tax for Corporations

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Corporate companies based in Germany - or with an executive board in Germany - are liable to corporate income tax on globally generated income

Dividends that have been generated and taxed abroad may be exempt from taxation in Germany or taxes paid in a foreign country can be offset against taxation in Germany

Corporate Income Tax Base

Taxable income (i.e. annual business profit) forms the tax base for corporate income tax

Under German commercial law, corporate company annual profit is calculated according to the accrual basis accounting method. This is recorded in the annual financial statement and forms the basis for determining taxable income.

Corporate Income Tax Rate

Corporate income tax is levied as a flat nationwide tax at a rate of 15 percent of taxable corporate income.

In addition a solidarity surcharge (*Solidaritätszuschlag*) is added on top of the corporate income tax. The surcharge is 5.5 percent of the 15 percent corporate income tax; creating a total of 0.825 percent of taxable income.

Personal Income Tax for Partnerships

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Companies Liable to Personal Income Tax

Partnerships such as the civil law partnership (GbR), the general commercial partnership (oHG) or the limited partnership (KG) are not separate legal entities but associations of partners, with the partners themselves generally being subject to all rights and obligations

Accordingly, partnerships are not subject to corporate income tax (*Körperschaftssteuer*) but to personal income tax (*Einkommenssteuer*), with the individual tax rate applicable to each shareholder

Personal Income Tax Rates

The personal income tax rate starts at:

- 14 percent for an annual income exceeding the tax-free allowance of EUR 8,354.

- It rises progressively to a maximum personal income tax rate of 42 percent which is applicable to annual income of EUR 52,882 or more.

- An increased tax rate of 45 percent applies to every euro in excess of earnings of EUR 250,731 per year.

Solidarity Surcharge

As with corporate income tax, the solidarity surcharge is also added to personal income tax. Accordingly, the solidarity surcharge is 5.5 percent of the individual personal income tax rate of every partner. If a partner has an individual income tax rate of 30 percent, the combined personal income tax + solidarity surcharge burden on the partner’s share in the profits would add up to 31.65 percent.

Trade Tax

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Companies Liable to Trade Tax

All commercial business operations in Germany are liable to pay trade tax (*Gewerbesteuer*) irrespective of their legal form

The trade tax is set by local authorities which means it can vary from one municipality to the next. However, trade tax is generally the same rate for all businesses within one municipality. Trade tax in Germany is currently set at between 7 and 17 percent.

Determining the Trade Tax Rate

The corresponding rate of trade tax depends on two components:

1. The tax base rate (3.5 percent throughout Germany)
2. The multiplier (*Hebesatz*) stipulated individually by every municipality

The taxable income of the company is multiplied with the tax base rate (3.5 percent) which results in the so-called tax base amount. The tax base amount is then multiplied with the corresponding municipal multiplier; which results in the sum total of trade tax which is due.

The multiplier is set by each municipality. On average, it is between 350 and 400 percent but may not total less than 200 percent. There is no upper limit for the municipal multiplier. It is generally higher in urban areas than it is in rural areas, although it does currently not total more than 490 percent in any of the large cities.

Value-added Tax in Germany

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Companies must add value-added tax (VAT) to their prices

Thus, VAT is only paid by the end user of a product or service. Companies transfer the VAT received to the tax authorities on a monthly, quarterly, or annual basis. The frequency generally depends on the level of company turnover

The normal VAT rate of 19 percent is just below the European average

A reduced rate of 7 percent applies to certain consumer goods and everyday services (such as food, newspapers, local public transport, and hotel stays). Some services (such as bank and health services or community work) are completely VAT exempt

Value-added tax which is collected has to be paid to the responsible tax office on a monthly, quarterly or annual basis. The exact time frame depends on the company's level of turnover

Taxation of Property – (1)

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Real Property Tax

Every property owner in Germany is liable to pay real property tax (*Grundsteuer*)

The tax rate depends on the type of real property. This is sorted into two distinct categories:

- Real property tax "A": Real property used for agriculture and forestry.

- Real property tax "B": Constructible real property or real property with buildings.

Real Property Tax Rate

The real property tax burden is calculated by multiplying:

- (1) the assessed value of the real property x (2) the real property tax rate x (3) the municipal multiplier

(1) The assessed real property value is determined by the tax authorities according to the German Assessment Code (Bewertungsgesetz). The German Assessment Code refers to historical property values that are usually significantly lower than current market value.

(2) The real property tax rate depends on the type of real property. The tax rate is e.g. 2.6‰ (0.26 percent) for property used for (semi-) detached houses with a value of up to EUR 60,000 and 3.5 ‰ (0.35 percent) for all remaining types of real property (including commercially used real property).

(3) Similar to the municipal multiplier applied in the trade tax case, the municipal multiplier applied to real property tax is stipulated by each municipality. Municipalities determine a municipal multiplier for both real property tax "A" and real property tax "B", with the rate for "B" usually being higher.

Determining the Real Property Tax Burden

Real property tax burden for a commercial building in a municipality with an average real property tax "B" collection rate of 350 percent:

Assessed Value EUR 1,000,000 (e.g.) x Basic real property tax ratex 0.35 percentx Muncipial multiplier "B"x 350 percent= Real property tax burden= EUR 12,250

Taxation of Property – (2)

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Real Property Transfer Tax

When domestic real estate is sold or changes owner, a one-time real property transfer tax (*Grunderwerbssteuer*) of the purchase price is levied.

Real property transfer tax is usually paid by the buyer

The tax rate varies from federal state to federal state

Real Property Transfer Tax Rates in the Respective Federal States 2014

3.5% Bavaria, Saxony; 4.5% Hamburg; 5.0% Baden-Württemberg, Bremen, Brandenburg, Hessen, Mecklenburg-Vorpommern, Niedersachsen, North Rhine-Westphalia, Rheinland-Pfalz, Saxony-Anhalt, Thuringia; 5.5% Saarland; 6.0% Berlin; 6.5% Schleswig-Holstein

Real property transfer tax also applies to a real property-owning partnership if 95 percent of the shareholders change within five years.

Tax Deductions

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Loss Carry-Back and Loss Carry-Forward

Losses for corporate income tax purposes can be carried back for one year, limited to a total loss amount of EUR one million

Losses can be carried forward with no time restriction

Up to an amount of EUR one million loss carry-forward is possible - free from any restrictions

For sums in excess of EUR one million, at least 40 percent of the taxable income must remain subject to taxation. In other words, a maximum 60 percent of taxable earnings exceeding EUR one million can be offset against incurred losses

Deductibility of Interest Payments

Generally, interest payments are fully deductible as operating expenditure

However, some special rules apply for corporate groups: If the amount of interest payments exceeds the amount of interest earnings for more than EUR 3 million, these exceeding interest payments are only deductible up to an amount of 30% of the EBITDA (earnings before interest, taxes, depreciation and amortization)

Straight Line Depreciation

Straight line depreciation for assets is a deductible expense for tax purposes

The annual depreciation is calculated by dividing the purchase price by the estimated useful life of the asset

All depreciations have to apply the straight line method

Fiscal Unit Concept

The German fiscal unit concept allows profit and loss pooling to determine the profit for taxation purposes at the level of the controlling parent. Profits and losses from German subsidiaries are consolidated and subject to taxation at the level of the German parent company. Fiscal unit preconditions are:

The controlling parent is resident in Germany.

The parent holds more than 50 percent of voting rights of corporate subsidiary entity.

A profit and loss pooling agreement between parent and subsidiary entity exists with a duration of five years.

This agreement is registered with the commercial register.

Tax Declaration

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Every taxpayer must submit a tax return to the tax authority (*Finanzamt*) once a year. The tax authorities are organized locally. The tax office at the location in which the corresponding company has its (German) head office is responsible.

Registration at the Tax Office

With the establishment of companies, the registration takes place at the responsible tax office with the submission of the so-called "tax assessment questionnaire." The questionnaire is sent to newly established companies by the tax office once they have been established (or once they have registered their business).

Tax Collection and Deadlines

With the most important types of tax (corporate income, personal income, trade, and value-added tax) collection is made via advance payments (normally monthly or quarterly) which are offset against the actual tax liability in the annual tax declaration. The tax declaration has to be submitted by 31 May of the following year. However, this deadline can be extended on request. Depending on the expected amount of taxes to be paid, the tax authorities can determine the period when tax payments are due.

The tax authorities provide information on tax issues. However, companies in particular should seek the services of a tax consultant to ensure the tax return is completed as favorably as possible. The German Association of Tax Advisers (*Deutscher Steuerberaterverein e.V.*) provides a register of German Tax Advisers.

Payment of Wage Tax

Employees pay wage tax (*Lohnsteuer*) - a special term for the income tax paid by employees. The employer is obliged to deduct the wage tax due directly from the salary of the employee and to pay it to the tax office on a monthly basis. For this reason, employees who do not get earnings from non-wage incomes may not be obliged to submit an annual tax declaration.

Electronic Tax Declaration

Tax declarations on income tax, wage tax, and value-added tax can easily be submitted to the tax office electronically. The electronically submitted tax declaration is mandatory for business operators. Information, forms, and software products for submission of an electronic tax declaration are available at the following websites.

Information on the subject of tax declarations is provided in detail at the website of the Tax Information Centre of the Central Office of Taxes.

Customs and Import Arrangements

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<u>The European Customs Union</u>

All member states of the European Union (EU), including Germany, form a customs territory (the European Customs Union) where unified customs arrangements apply. Goods imported into the EU are subject to EU-wide import regulations, customs tariffs and customs procedures.

This means that customs duties are only levied when the goods are imported into the EU. Once goods have been imported into the EU, no further customs duties must be paid within the customs territory - even if the goods cross internal borders of member states.

<u>The European Customs Union in Practice</u>

A German product may be shipped to Hungary without paying any duty and without any customs control.

Conversely, a Japanese product imported into the European Customs Union is subject to customs duties only when and where it first enters the EU, for example, Germany.

Subsequent to entry and initial customs clearance, no further customs procedures and duties are necessary. The product can circulate freely within the European single market.

Through the Agreement on the European Economic Area (EEA), Norway, Iceland and Liechtenstein also comply with most of these European Community regulations. The EU has also concluded customs unions with Andorra, San Marino and Turkey. Trade agreements allowing the duty-free import of certain goods or preferential tariff import agreements exist with many other countries.

Please see the EU-website for an overview of existing free trade agreements between the EU and third countries.

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Thank you very much for your attention

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