

# Using the progression clause for saving taxes with huge one-time profits



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## Agenda



1. Starting Situation – The case
2. Tax liability
3. Options
4. Tax model
5. Requirements

## 1. Starting Situation – The case



Private individual German (not married) has regular annual income of 251,000 EUR and additional onetime earnings of 1,000,000 EUR e.g. through divestment

Total income: 1,251,000 EUR

Highest tax rate through the German tax progression

## 2. Tax liability



	Regular anual income in EUR	Divestment in EUR	Total in EUR
Gross income	251.000	1.000.000	1.251.000
Tax rate (incl. solidarity surcharge)	40,88%	47,48%	46,16%
Tax amount	102.605	474.750	577.355

### 3. Options



What are the options for saving taxes?

- Establishment of a foreign company (partnership with trade income) in a DTA-country, where tax losses can be carried forward e.g. in Poland

### 3. Options



According to the DTA Germany/Poland:

- In Germany, income of the foreign business partnership is subject to exemption with progression
- German methods of determining profits are applicable
- Two methods for determining profits
  - \* accrual-based accounting
  - \* cash-based accounting

## 4. Tax Model (1) – in Poland



Polish partnership buys and pays gold in year 1 in the amount of 1.250.000 EUR.

- According to cash-based accounting these expenses are also operating costs and lead to total losses in Poland
- Total losses carried forward in year 1 in Poland 1.250.000 EUR



## 4. Tax Model (2) – in Germany



### 1. Step – Determination of tax rate in year 1

	year 1 total in EUR
Income in Germany	1.251.000
Losses in Poland, subject to progression in Germany	-1.250.000
Income basis for determination of tax rate	1.000
Tax rate on income basis	0,00%

## 4. Tax Model (3) – in Germany



### 2. Step – Taxation of income

	year 1 total in EUR	Initial situation in EUR
Total income in Germany	1.251.000	1.251.000
Tax rate	0,00%	46,16%
Tax amount	0	577.355

## 4. Tax Model (3) – in Poland



Polish partnership sells the gold and gets payment in year 2 in the amount of 1.250.000 EUR.

- According to cash-based accounting profit in Poland in the amount of 1.250.000 EUR, which is relevant for German taxation
- Tax in Poland is nil, due to the losses carried forward from year 1 in the same amount

## 4. Tax Model (4) – in Germany



### 3. Step – Determination of tax rate in year 2

	year 2 total in EUR
Income in Germany	251.000
Profit in Poland, subject to progression in Germany	1.250.000
Income basis for determination of tax rate	1.501.000
Notional tax amount	659.756
Tax rate on income basis	43,95%

## 4. Tax Model (5) – in Germany



### 3. Step – Taxation of income in year 2

	year 2 in EUR	year 2 taxation without polish profit in EUR
Total income in Germany	251.000	251.000
Tax rate	43,95%	
Tax amount	110.325	
+ Solidarity surcharge (5,5%)	6.068	
Total (incl. Solidarity surcharge)	116.393	102.605
Total tax rate	46,37%	40,88%

## 4. Tax Model (6) – Summary



	Without tax model in EUR	With tax model in EUR	Savings in EUR
Taxes Year 1	577.355	0	577.355
Taxes Year 2	102.605	116.393	-13.788
Total	679.960	116.393	563.567

Total tax savings of 563.567 EUR

## 5. Requirements



### What are the requirements?

- Foreign country with DTA
- Possibility for losses carrying forward in foreign company
- Dealing with economic good, for which cash-based accounting is permitted and which is easily tradable e.g. precious metals (Gold)
- Management of foreign company's business from abroad (Poland)

Thank you for your attention!



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