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

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 a 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.

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 interst 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 ownership of the company's share capital or, in certain circumstances, 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 (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	Dividends from international holdings are taxable, with a credit for underlying tax rather than exempt if covered by an ordinance of the Federal Minister of Finance to avoid tax fraud and abuse. This can be assumed if in general: ■ The core business of the foreign company is to derive income, directly or indirectly, from loans, the lease of tangible or intangible assets, or the sale of participations (income test); and ■ The foreign company does not meet an effective minimum taxation test (i.e., foreign tax is less than 15 percent of the effective tax rate under Austrian law).
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 qualifiying costs incurred for R&D.
Other incentives	No
VAT	The standard rate is 20 percent and the reduced rate is 10 percent.
Other relevant points of attention	No

Source: Austrian tax law and local tax administration guidelines, updated 2017.

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

www.kpmg.com

KPMG