

AUSTRIA

A – Taxation of Companies

Introduction

Corporate taxpayers are subject to national corporate income tax. There are no other taxes on the income of companies. A payroll tax and social security contributions are levied on the aggregate salaries paid to employees. A VAT system applies to the supply of goods and services.

In general, the description below applies to all areas of Austria. For VAT purposes, however, the small villages of Jungholz and Mittelberg near the German border are excluded.

The currency is the euro (EUR).

1. CORPORATE INCOME TAX

1.1. *Type of tax system*

The Austrian corporate income tax is based on the classical system. Corporate profits are subject to corporate income tax. Dividends paid to individual shareholders and portfolio corporate shareholders are subject to a withholding tax. For an individual shareholder, the withheld tax is final; for a portfolio corporate shareholder, it is credited against final income tax liability (on other income) or refunded on request. There is no withholding tax on dividends paid to substantial corporate shareholders. Dividends are exempt from corporate income tax in the hands of a corporate shareholder, regardless of the size of the holding (participation exemption, see 2.2.).

1.2. *Taxable persons*

Legal entities subject to corporate income tax include:

- stock companies (AG);
- limited liability companies (GmbH);
- private foundations;
- commercial enterprises operated by public entities;
- associations, institutions, foundations without independent legal existence and accumulations of property for a specific purpose.

Both limited and general partnerships are treated as transparent entities for tax purposes.

This survey is restricted to resident stock companies and limited liability companies, as well as to foreign-incorporated entities of a similar description, whether resident or non-resident. These entities will be referred to as companies.

The private foundation is not allowed to pursue trade or commercial activities as its main activity but it may operate as a holding company. The private foundation is, in principle, subject to corporate income tax on its worldwide income. However, special treatment is provided for certain items of passive income and capital gains derived by the foundation. This special treatment will be explained in the respective chapters below.

1.2.1. Residence

A company is resident if it has its legal seat (place which is designated as such in its statutes) or its place of effective management in Austria. Companies incorporated under Austrian commercial law must have their legal seat in Austria. For the place of effective management test, the location of the strategic management (i.e. where the leading decisions are made), and not that of the day-to-day management, is decisive.

1.3. *Taxable income*

1.3.1. General

Resident companies are taxable on their worldwide income. The provision that lists items of taxable income is broadly worded and includes practically all income, whether principal or accessory in nature, and whether received in money or money's worth. Taxable income is the total income from one or more sources listed in the Individual Income Tax Law, decreased by some special expenses and the losses incurred from these sources. Income and capital gains are pooled and taxed at the same rate. The computation of the income follows the rules of the Individual Income Tax Law, unless the Corporate Income Tax Law provides otherwise.

1.3.2. Exempt income

The most important items of exempt income are domestic and foreign dividends under the participation exemption (see 2.2.).

Also exempt are contributions by shareholders to the capital of a company upon formation or increase, whether or not in return for shares or other membership rights or in proportion to shareholding.

1.3.3. Deductions

1.3.3.1. Deductible expenses

In general, expenses incurred in acquiring, securing and maintaining taxable income are deductible. Employees' remuneration is deductible. In addition to direct payments of remuneration, employers may deduct the costs of employee benefits including retirement plans, health, accident and life insurance, meals, cars and other fringe benefits. In some cases the deduction is limited either by statutory law or rulings, e.g. for certain contributions to pension funds.