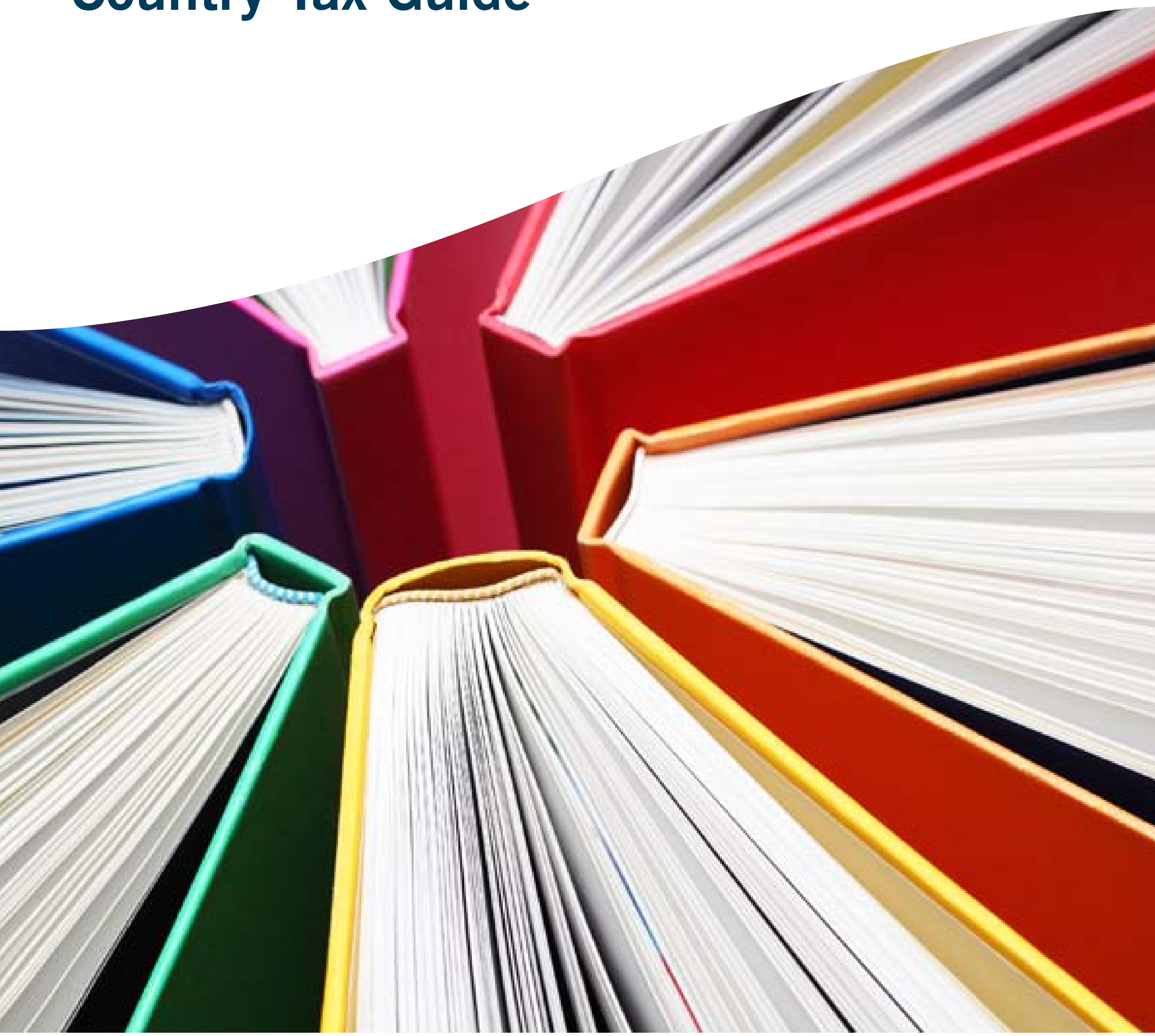
Country Tax Guide



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Corporate Income Taxes

Resident companies, defined as companies which are legally constituted in Germany, or which are legally constituted elsewhere but which have their place of management in Germany, are liable to corporate income tax on their worldwide income.

Non-resident companies are liable to corporate income tax on their income from sources in Germany.

All companies carrying on business in Germany are liable also to a municipal trade tax.

The taxable bases for corporate income tax and for trade tax are similar, but for trade tax the profits derived from foreign permanent establishments are exempt, and there are restrictions on the extent to which interest payments qualify for relief.

The rate of corporate income tax is 15%, on which there is levied a solidarity surcharge of 5.5%, giving an overall effective rate of 15.83%.

The trade tax rate is determined by a federal rate of 3.5% and a multiplier of at least 200% (equal to a minimum trade tax of 7%); municipalities can set considerably higher multipliers. Examples of current city multipliers (with resulting trade tax rates for those cities in brackets) are:

- Berlin – 410% (14.35%)
- Frankfurt am Main – 460% (16.1%)
- Hamburg – 470% (16.45%), and
- Munich – 490% (17.15%).

Capital gains are generally taxed as income.

Losses can be relieved against previous year profits up to maximum profits of €1m. Losses can also be carried forward for relief against future profits, the maximum set-off for which in any one year is €1m plus 60% of taxable income in excess of that sum.

The profits and losses of companies in a group can generally be pooled for tax purposes, with the parent company becoming responsible for paying the tax liability on the group's net profits.

The standard tax year is 1 January to 31 December; companies can choose an alternative tax year, but tax returns must be filed by reference to calendar years. If a company's financial year differs from the calendar year, its return must be based on its financial year ending within the calendar year. Tax returns must generally be filed by the following 31 May, although the filing due date can be extended.

Resident companies must make quarterly payments on account of their tax liabilities, in March, June, September and December. Any balance of tax due is payable one month after it is assessed.

Personal Taxes

Resident individuals are subject to tax on their worldwide income.

Non-resident individuals are subject to tax on their income from sources in Germany.

Married couples and civil partners living together are taxed jointly unless they elect to be taxed separately.

Income tax is charged at progressive rates and by reference to complex tables. Taxpayers filing singly are exempt from tax on their first €8,130 of income. Tax rates then range from 14% to 45%, with the top rate applying to taxable income in excess of €250,730. Married couples and civil partners filing jointly are exempt from tax on their first €16,260 of income. Tax rates then range from 14% to 45%, with the top rate applying to taxable income in excess of €501,460. In all cases the amount payable is increased by a solidarity surcharge of 5.5% of the tax due.

Non-residents earning more than 90% of their income in Germany, or less than €8,130 outside Germany, can opt to be treated as residents for tax purposes. If they are citizens of a member state of the European Economic Region, joint filing and family tax relief is also available.

Capital gains on the sale of business assets are taxed as income. Gains on the sale of other assets are generally exempt from tax. Gains from the sale of a shareholding in a company in which the seller owned less than 1% of the share capital is taxed at 25% plus 5.5% solidarity surcharge (effective rate: 26.375%). Sixty per cent of gains on the sale of a shareholding in a company in which the seller owned 1% or more of the share capital, and gains on the sale of real estate owned for less than 10 years and not used as a private residence, are (subject to various conditions) taxable at the progressive individual tax rates (see above).

Inheritance and gift taxes are charged on the recipients of bequests and gifts. There are reliefs for business property. Recipients are entitled to personal allowances against the value of bequests and gifts; the amount varies according to the relationship between the deceased or the donor and the recipient. Net taxable amounts are then taxed at different rates, again depending on the degree of relationship. For example, the top rate for the spouse or children of the donor is 30%. The top rate otherwise is 50%.

There is no wealth tax.

Employment Related Costs and Taxes

Fringe benefits

Fringe benefits, whether in cash form, assets made available to the employee or private costs met by the employer, are brought into the employee's income taxation at their financial valuation. The financial valuation is added to the employee's gross salary and taxed at the progressive personal income tax rates.

There are tax-exempt fringe benefits:

- Where they do not exceed, in total, €44 per month
- Childcare for children under school age
- First-year school fees for an expatriate employee's child, up to €1,752 (from August to December 2013; increased from €1,732 for January to July 2013)
- Workplace health promotion up to €500 per year.

Reimbursement of relocation costs is generally excluded from fringe benefits taxation.

Payroll taxes

Apart from social security costs (see below), there are no payroll taxes.

Social security costs

Employers' contributions are divided between four classes of social insurance and are expressed as a percentage of the employee's monthly salary up to prescribed limits:

	Monthly Salary Limit	Contribution Rate
Pension insurance	€5,800.00	9.45%
Health insurance	€3,937.50	7.3%
Unemployment insurance	€5,800.00	1.5%
Nursing care insurance	€3,937.50	1.025%

Employees are liable to pay the same contributions as employers except that:

- The health insurance element is charged at 8.2%, and
- The nursing care insurance element for a person without children is charged at 1.275%.

Withholding Taxes

Domestic payments

Generally, withholding tax of 25%, plus 5.5% solidarity surcharge (giving an effective rate of 26.38%), is applied to dividend and interest payments. Companies that own 10% or more of the paying company can claim a refund or tax credit of 95% of the tax withheld; the remaining 5% is treated as a non-deductible business expense and added to taxable income for corporate income tax and trade tax purposes.

If dividend payments to individuals form part of another income category, such as income from trade or forestry, the withholding tax does not apply and 60% of the dividends are instead subject to personal income tax rates. This method can also be chosen, for a prescribed five-year period, by a shareholder who has at least a 25% interest in the paying company.

Payments abroad

Dividends are generally subject to a withholding tax of 25%, plus 5.5% solidarity surcharge (giving an effective rate of 26.38%), although non-resident recipient companies can claim a refund for tax paid in excess of the 15% corporate income tax rate (subject to rules restricting treaty shopping).

Under the EU Parent-Subsidiary Directive, dividends paid to a company in the EU are exempt from withholding tax if that company has owned 10% or more of the paying company's share capital for at least 12 months.

Interest payments are generally exempt from withholding taxes. Interest paid on convertible or profit sharing bonds, however, is subject to a withholding tax of 25% (plus 5.5% solidarity surcharge, as above).

Royalties are subject to a withholding tax of 15% plus solidarity surcharge (giving an effective rate of 15.83%).

Under the EU Interest and Royalties Directive, interest and royalties paid to associated companies in the EU are exempt from withholding tax, subject to conditions.

For payments made to recipients in countries with which Germany has entered into a double tax treaty, the rates of withholding tax may be reduced under the terms of the treaty.

Value Added Tax (VAT)

VAT is levied on the selling price of goods and services and on the value of imported goods. Businesses must register for VAT if their sales turnover in the previous year was more than €17,500 or if their sales turnover in the current year is expected to exceed €50,000.

The standard rate is 19%. A reduced rate of 7% applies to selected commodities, including food and medicines.

Exports are zero-rated. Some supplies are designated as exempt, including real estate transactions and banking and insurance. Businesses, other than those making exempt supplies, can generally recover the VAT charged on their own purchases.

Other Taxes

Transfer tax

A transfer tax of between 3.5% and 5.5%, depending on the municipality, is charged on the transfer of beneficial interests in real estate.

There is no such tax on the transfer of shares in companies.

Real estate taxes

Real estate taxes are imposed by municipalities on the fiscal value of a property. The rate is determined by a federal rate of between 0.26% and 0.6%, depending on the intended property use, and a multiplier set by each municipality. Examples of current multipliers (in terms of the highest multiplier for each of the following municipalities, depending on intended land/property use) are:

- Berlin – 810%
- Frankfurt am Main – 460%
- Hamburg – 540%, and
- Munich – 535%.

Excise duties

Germany imposes excise duties on electricity, energy, alcohol, alcoholic beverages and tobacco. These duties are harmonised with EU regulations.

Bank levy

All credit institutions in Germany with an end-of-year balance above €300m are subject to an annual levy based on their end-of-year balance. The rates range from 0.02% to 0.06%, depending on the end-of-year balance. There are minimum and maximum caps on the bank levy of 5% and 20% of profit, respectively. The levy is not tax deductible.

Tax Incentives for Businesses

Small and medium-sized enterprises (SMEs)

SMEs can apply, along with tax declarations and annual filings, for a deduction in their taxable income of up to 40% of investment in future acquisition or manufacturing costs. For these purposes, an SME is one where the equity capital does not exceed €235,000.

The future investment must be made within the following three fiscal years. The deduction is limited to €200,000 with respect to the total of deductions for the two prior years and the current year.

If the investment is concluded in the following years, the deduction must be offset by a commensurate addition to the taxable income. As compensation, the taxpayer is allowed to deduct up to 40% of the investment directly from the acquisition costs. Additionally, the taxpayer is allowed to depreciate up to 20% of the regular depreciation of the asset within five years.

If the investment is not concluded within three years, the past deduction is recaptured.

Renovation of listed buildings

Accelerated annual depreciation allowances are available in respect of the renovation of listed buildings. An allowance of up to 9% of the cost may be claimed in the year in which the expenditure is incurred and in each of the following seven years, and then up to 7% of the cost in each of the next four years.

Country Tax Guides are designed to provide a summary of the taxes which apply to business and individuals, and are for information purposes only. Whilst every effort has been made to ensure accuracy, information contained in these guides may not be comprehensive and is subject to frequent change. Recipients should not act upon it without seeking professional advice. Contacts details for independent members of Baker Tilly International can be found at www.bakertillyinternational.com.

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