Tax And Accounting Profile Germany

Executive summary of German tax and accounting rules

This brochure focuses on German tax, accounting and corporate/commercial law. Foreign resident companies and individuals will find here the most relevant information for investments or doing business in Germany.

Contents:

Götter, Schleweit & Partner is a partnership of tax advisors located in Heidenheim (South Germany). We serve German and international companies and individuals in all matters of inbound and outbound businesses. We assist foreign companies in setting up a company or branch in Germany or in purchasing a German company. Audits of financial statements are performed by our audit partner.

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Common Legal Forms for Business in Germany

Stock Corporation – Aktiengesellschaft (AG)

Liability	The shareholder's liability is limited to his capital contribution.
Statutory capital	At least € 50,000.00.
Corporate bodies[1]	Stockholders' meeting, board of directors, supervisory board.
Audit of financial statements	Mandatory, if 2 of the following conditions are met in 2 subsequent years: Number of employees > 50 Turnover > € 8,030,000.00 Balance sheet total > € 4,015,000.00
Income taxation	Earnings before income taxes after corrections - Trade tax on income of average 11% - 16% +/- Corrections = Tax basis for corporation income tax - <u>Corporate income taxes 15.825%</u> = Earnings after income taxes Dividend withholding tax 20%, reduced to 0% - 15% by double tax treaties, 0% within EC.

Limited Liability Company – Gesellschaft mit beschränkter Haftung (GmbH)

Liability	The shareholder's liability is limited to his capital contribution.
Statutory capital	At least € 25,000.00. for regular GmbH. Other provisions for "Mini-GmbH"
Corporate bodies[1]	Shareholders' meeting, board of directors, supervisory board (discretionary).
Audit of financial statements	Same as for Stock Corporation
Income taxation	Same as for Stock Corporation

[1] The stockholders of an AG have less influence on the board of directors than the shareholders of a GmbH. The GmbH is the mostly preferred legal form for investments, since it combines utmost influence of the shareholders with limited liability of the shareholders.

General Partnership – Offene Handelsgesellschaft (OHG)

Liability	All partners are personally and jointly liable for the partnership's liabilities without limitation.
Statutory capital	Not required.
Corporate bodies	The partners represent the company. A General Partnership is no corporate entity.
Audit of financial statements	Not required[2].
Income taxation	Earnings before income taxes - Trade tax on income, average rates of 11% - 16% = Tax basis for the partners' income tax. Each partner's portion is subject to his personal income tax or corporate income tax. Credit of trade tax on income only against the partners' personal income tax (only for individuals). No dividend withholding tax.

Limited Partnership – Kommanditgesellschaft (KG)

Liability	The General Partners are unlimitedly, personally and jointly liable for the partnership's liabilities. The Limited Partners are only liable with their capital contributions to the company.
Statutory capital	Not required.
Statutory bodies	Only the General Partners are entitled to represent the company. A Limited Partnership is no corporate entity.
Audit of financial statements	Not required[3].
Income taxation	Earnings before income taxes - Trade tax on income, average rates of 11% - 16% = Tax basis for the partners' income tax. Each partner's portion is subject to his personal income tax or corporation income tax. Credit of trade tax on income only against the partners' personal income tax (only for individuals). No dividend withholding tax.

2 Except under certain conditions.
3 Except under certain conditions.

Limited Partnership with a Corporation as the General Partner – GmbH & Co. KG

The General Partner is typically a GmbH without own business activities and with low statutory capital. The Limited Partners are holding substantial interests in the partnership and combine limited liability with tax transparence (flow-through).

Liability	The General Partner is unlimitedly and personally liable for the partnership's liabilities. The Limited Partners are only liable with their capital contributions to the company.
Statutory capital	Not required for the KG, € 1 - € 10,000 for the GmbH.
Statutory bodies	Only a General Partner is entitled to represent the company. A GmbH & Co. KG is a partnership and no corporate entity.
Audit of financial statements	Required for medium sized and large companies[4].
Income taxation	- Earnings before income taxes - Trade tax on income, average rates 11% - 16% = Tax basis for the partners' income tax. Each partner's portion is subject to his personal income tax or corporation income tax. Credit of trade tax on income only against the partners' personal income tax (only for individuals). No dividend withholding tax.

Branch Office – Zweigniederlassung/Betriebstaette

Liability	Unlimited.
Statutory capital	Not required (assigned equity is required in some cases).
Statutory bodies	Not required (no separate corporate entity); only a representative is required.
Audit of financial statements	Not required[5].
Income taxes	Earnings before income taxes - Trade tax on income, average rates 11% - 16% = Tax basis for personal income tax or corporation income tax. Hereof corporation tax or personal income tax. No dividend withholding tax, no branch profits tax.

4 Same as for Stock Corporation and GmbH.

Important Tax Rates - Companies

For Corporations and Branches of Foreign Resident Corporations

Trade tax on income	Average rates 11% - 16%, varying locally.
Corporation income tax	15%.
Withholding tax on dividends (domestic rate)	20%[5].
Withholding tax on interest (domestic rate)	0% - 35%[6].
Withholding tax on royalties (domestic rate)	20%.
Solidarity surcharge	5.5% of corporation income tax and withholding taxes[7].
Construction withholding tax	15%[8].
Payroll tax (to be withheld by the employer)	➔ Chapter “Important Tax Rates - Individuals”.
Social security taxes - employer portion	➔ Chapter “Important Tax Rates - Individuals”.
Value-added tax (German VAT law is harmonized tax law of the European Community. However, the tax rates vary from the other member states.)	19% since Jan 01, 2007 (standard rate). 7% (reduced rate). 0% (various exemptions, e.g. export of goods and services).
Real estate transfer tax	3.5%.
Real estate tax (land tax, property tax)	0.8% - 2.1%[9].
Estate and gift tax	7% - 50%[10].
Net assets tax	not imposed.
Capital transfer tax[11]	not imposed.

5 Not applicable for branches (no branch profits tax).
6 Only for certain kinds of interest income from banks etc.
7 The solidarity surcharge on withholding taxes is normally reduced to nil under double tax treaties.
8 Exemptions possible.
9 Varies locally; tax base is the assessed value for tax purposes which is substantially lower than the market value.
10 Practically of minor importance for corporations.
11 On the purchase or sale of interest in a company.

Important Tax Rates – Individuals (1)

Trade tax on income[12]	Average 11% - 16% (rates varying locally) with a lump-sum tax credit against individual income tax (but not against corporate tax).
Individual income tax[13] basic rates:	0% - 42% (+ 3% on income > 250,000 / 500.000 Euros) minimum rate of 25% for non-resident individuals (exception: salaries), but certain relief for EC residents[14].
splitting tariff:	Reduced rates for married couples under certain conditions.
reduced rates:	On certain types of income, tax relief on capital gains from the sale of a business at an age of at least 55 years.
flat tax, effective from 2009 onwards:	25% + solidarity surcharge + church tax on yields from capital investment, including capital gains.
Payroll tax	Withheld by employer. Rates are based on individual income tax rates. Splitting tariff for married couples. Credited against individual income tax.
Solidarity surcharge	5.5% of individual income tax, payroll tax, withholding taxes.
Church tax - for members of certain churches	8% or 9% of individual income tax and payroll tax.
Withholding tax for non-resident supervisory board members	30%[15]
Withholding tax for self-employed artists, professional athletes, authors and journalists	20%[16]
Withholding tax on interest income from banks in Germany and from bonds which are publicly registered in Germany	30%[17] 35% for over-the-counter transactions[18]
Withholding tax on royalties	20%[19]
Construction withholding tax	15%[20]

12 Only on business profits
13 Tax credit of trade tax on income is not reflected in the tax rates
14 The minimum tax possibly violates EC law and is void; a court case is pending.
15 Domestic rate.
16 Domestic rate.
17 Domestic rate.
18 Domestic rate.
19 Domestic rate.

Important Tax Rates – Individuals (2)

Social security taxes[21] (as of 2007) ▪ employer portion ▪ employee portion	 50% 50% + additional percentages

1. Pension Insurance - 19.9% of compensation up to €63,600 (former Western German states) and €54,000 (former Eastern German states) per year. Employer and employee each pay 9.95%.
2. Unemployment Insurance - 3.3% of compensation up to €63,600 (former Western German states) and €54,000 (former Eastern German states) per year. Employer and employee each pay 1.65%.
3. Health Insurance – 14% (approx. average rate 2007) of compensation up to €43,200 per year. Employer pays 7%, employee pays 7% + 0.9% = 7.9% (on average).
4. Disability Insurance (nursing care) - 1.95% of salary up to €43,200 per year. Employer pays 0.98%, employee pays 0.98% + 0.25% = 1.23%.

Value-added tax	19% standard rate 7% reduced rate 0%
Real estate transfer tax	3.5%
Real estate tax (property tax)	0.8% - 2.1%[22]
Estate and gift tax	7% - 50%[23]

20 Domestic rate. Zero rate possible.
21 Imposed on income from employment. Figures as of 2007.
22 Varies locally; tax base is the assessed value for tax purposes which is substantially lower than the market value.
23 Dependent on degree of relationship and value of property transferred; generous allowances not considered.

Corporation Income Tax (1)

Taxable persons	Corporate entities with place of incorporation or place of management in Germany and German branches of foreign corporate entities.
Tax residence in Germany	Place of incorporation or place of management.
Corporation income tax rate Solidarity surcharge	15% - not including trade tax on income. 5.5% of corporation income tax
Taxable income if resident in Germany	Worldwide income.
Taxable income if resident abroad	Income from German source.
Taxable income of branches	Income derived by the branch (direct method is generally preferred).
Important types of exempt income	Income exempt under double taxation treaties, dividends, capital gains from the disposal of shares in corporate entities, subsidies pursuant to the Investitionszulagegesetz, shareholders' capital contributions.
Important deductions	Business expenses, loss carry over, depreciation, provisions[24] and reserves on certain capital gains, write-down to lower going concern value[25].
Disallowed business expenses	Business expenses which are directly related to tax-exempt income, certain taxes like corporation tax and solidarity surcharge, interest exceeding the safe haven under thin capitalization rules, certain donations[26], entertainment expenses exceeding 70% of reasonable costs, gifts to persons who are not employees of the taxpayer, exceeding € 35 per person and per year, penalties with punitive character, 50% of the remuneration to supervisory board members, dividends, including constructive dividends.
Carry back and forward of tax losses	1 year up to an amount of € 511,500.00. Carry forward of losses: up to € 1 million without limitation, exceeding amount deductible at 60%. Rest of losses to be carried forward to next years under the same rules. Losses can be crushed partially if > 25% of shareholders or voting rights in the corporation change within 5 years and totally if the threshold of 50% is exceeded.
Capitalization of expenses	Expenses connected with the purchase, the production or the change of substance of an asset must be capitalized and depreciated; maintenance and replacement costs are normally deductible.

24 Some types of provisions are not deductible.
25 A write-up is required if the going concern value increases again.
26 Up to certain limits, donations to acknowledged entities for specific purposes are tax deductible.

Corporation Income Tax (2)

<u>Thin capitalization rules</u>	(applicable for all legal forms of business, not only for corporations; *for corporations a few special rules apply*)
Interest expenses are deductible:	up to the amount of interest income of the same business year.
An exceeding amount of interest:	is deductible up to 30% of EBITDA[28], unless one of three exemptions apply.
Not deductible interest expenses:	are carried forward to the following years.
3 exemptions are:	(where the exceeding amount of interests is deductible:)
(1) A negative balance of interest[27] up to € 1 million:	is generally deductible.
(2) Shareholder clause:	if the company does not or only partially belong to a concern. *For corporations the law requires additionally that no "harmful loans" from shareholders exist. Harmful loans are given if > 10% of the negative balance of interest is paid to a shareholder with > 25% of the shares or to a party related to the shareholder.*
(3) Equity ratio:	If the company fully belongs to a concern but its debt-equity ratio[29] is max. 1 percentage point lower than the concern's ratio.
Applicable to business years:	which begin after May 25, 2007 and end after December 31, 2007.
Constructive dividends	
Definition:	Reduction of the corporate entity's equity, caused by the shareholding relationship and affecting its taxable income.
Examples:	German company purchases goods or services from parent company at a price which is higher than a price at arm's length. German company sells goods to a sister company at a price which is below a price at arm's length (being considered as a constructive dividend to its shareholder, not to the sister company).
Consequences:	The taxable income has to be increased. The correction of the taxable income is treated as a dividend, which may trigger dividend withholding tax.
Consolidated tax group	Possible within the German jurisdiction under certain conditions.

[27] The amount by which interest expenses exceed interest income.
[28] A specific EBITDA as defined in the tax laws.
[29] Special rules in the tax laws exist for the calculation of the debt-equity ratio.

Trade Tax on Income

Taxable persons	Corporate entities, partnerships and sole proprietorships.
Taxable income	Income from trade or business as defined in the German tax laws, if derived by a permanent establishment in Germany.
Tax basis = income subject to trade tax	Income from trade or business, modified according to the provisions of the Trade Tax Act. (only for trade tax purposes, not for corporation tax or personal income tax)
25% of the total of the following expenses (minus an allowance of € 100,000) is added to the income:	- Interest expenses and other remunerations for loans - Pensions in connection with formation or purchase of the business - Profit shares of a silent partner - 20% of lease and rent for movable fixed assets - 75% of lease and rent for immovable fixed assets - 25% of license fees and similar remuneration for the use of rights, but not of licenses which entitle to issue sublicenses ➔ Minus an allowance of € 100,000
Some more additions to the taxable income - not completely listed	tax-exempt dividends or part of dividends from German resident corporate entities where shareholding is < 15%, shares in losses of a partnership with trade or business income.
Important deductions from the taxable income - not completely listed	Loss carry forward at 100% for losses up to € 1 million, 60% of exceeding amount is deductible, the rest to be carried forward to following tax periods. Losses will be partially crushed if > 25% of shareholders or voting rights in the corporation change within 5 years and totally if the threshold of 50% is exceeded. 1.2% of the tax value of real estate belonging to the business property, profit shares of a partnership with trade and business income, dividends from a German resident corporate entity where shareholding is at least 15%, income derived from a foreign permanent establishment, dividends from corporate entities resident abroad (a) with active income where shareholding is at least 15% or (b) in certain cases where double tax treaties apply and the shareholding is at least 15%[30].
Tax rates	The tax rates vary locally, they are determined by the municipalities by fixing a multiplier. 3.5% x multiplier = tax rate. Examples: Multiplier 350% ==> tax rate 12.25% Multiplier 400% ==> tax rate 14.00% Multiplier 450% ==> tax rate 15.75%
Credit against individual income tax[31]	Trade tax income x 5% x 1.8 = individual income tax credit.

[30] Subject to lower threshold under a double tax treaty
[31] Tax credit is limited to the amount of trade tax liability.

International Holding Companies Based in Germany

Dividends	95% of the dividends are tax-exempt income.
Gains from disposal of companies	Tax-exempt income.
Income from foreign branches[32]	Tax-exempt income[33].
Dividend withholding tax	Statutory rate 20%, treaty rates mostly 5%/15%, for dividends to EC member states 0%[34].
Losses from disposal of corporate entities.	Not deductible.
Losses from foreign branches	Not deductible - as far as income from such branches is exempt.[35]
Cost of financing the acquisition of interest in subsidiaries	Deductible.
Thin capitalization rules	Relevant if interest expenses > € 1 million. See corporation tax.
Consolidated group taxation	Yes, generally.
Controlled Foreign Corporation rules	Yes[36].
Examples for aggregate tax rates of corporation income tax plus trade tax on income, including solidarity surcharge	28.075% (where trade tax is 12.25%) – 31.575% (where trade tax is 15.75%). Trade tax varies in different municipalities.
Network of double taxation treaties	High number of income tax treaties + several other treaties[37].
Elimination of double taxation in treaties	Credit method for interest and royalty income, exemption method for dividends and gains from the disposal of shares.
EC incentives	No customs, uniform VAT rules within EC.
Business reorganization[38]	in certain cases tax neutral.
Expatriates' individual income tax	Top rate 42%, whereas average rate is lower. Taxable base = income minus substantial exemptions and allowances; the effective tax rate is lower.

32 Where a double taxation treaty applies.
33 Generally, where a double taxation treaty applies.
34 If shares of at least 25% / 10% are held for at least 12 months.
35 Subject to jurisprudence of European Court.
36 On passive income derived by foreign corporate entities in low-tax countries.
37 Estate tax, gift tax, air and sea transportation and shipping.
38 E.g. mergers and de-mergers, changes of the legal form of a company.

Branch or Subsidiary?

Branches

Liability	Unlimited.
Registration duties	yes.
Audit of financial statements	not required[39].
Trade tax	average rates of 11% - 16%.
Corporate income tax[40]	15%.
Solidarity surcharge	5.5% of corporate income tax.
Withholding tax on distribution of profits (branch withholding tax)	none.
Head office expenses	deductible, if reasonably allocated to the operations of the branch.
Cost of finance	Loans which the head office arranged exclusively for the purpose of branch operations are deductible; thin capitalization rules.

Subsidiaries

Liability	limited.
Registration duties	yes.
Audit of financial statements	→ Common legal forms for business in Germany / Stock Corporation
Trade tax	average rates of 11% - 16%.
Corporate income tax	15%.
Solidarity surcharge	5.5% of corporate income tax.
Dividend withholding tax	0% - 20%.
Expenses for services from parent company to its subsidiary	deductible, subject to an arm’s length test (stewardship expenses are not deductible).
Cost of finance	Loans from the parent company to its subsidiary are generally deductible, subject to an arm’s length test + thin capitalization rules.

[39] Except under certain conditions.
[40] Branches of individuals are subject to personal income tax.

Business Acquisitions

Can the buyer depreciate the purchase price?

asset deal	yes, the purchase price is allocated to the assets and to goodwill (land and shares in corporate entities cannot be depreciated, goodwill is depreciated over 15 years for tax purposes).
purchase of interest in a partnership	yes, see above.
share deal	no.

Is the cost of financing the purchase price tax deductible?

asset deal	yes (subject to arm's length test and thin capitalization rules).
purchase of interest in a partnership	yes.
share deal	no.

Are the seller's capital gains subject to tax?

asset deal	yes.
purchase of interest in a partnership	yes.
share deal	yes – but exempt if a German corporate entity disposes of shares in another corporate entity.

Can an existing loss carry over be utilized by the buyer?

asset deal	no.
purchase of interest in a partnership	no.
share deal	If > 25% of shareholders or voting rights in the corporation change within 5 years, a part of the losses will be crushed. If the threshold exceeds 50%, all losses are waived.

Please note: Such sales transactions might trigger real estate transfer tax.

Withholding Taxes - German Double Taxation Treaty Rates

Country	Dividends		Interest	Royalties
This chart is an overview. The applicable double tax treaty should be consulted for details.	Qualifying Companies %	Other companies, Individuals %	%	%
Argentina	15	15	10/15	0/15
Australia	15	15	10	10
Austria	5	15	0	0
Azerbaijan	5	15	10	5/10
Bangladesh	15	15	10	10
Belgium	15	15	0/15	0
Bolivia	10	10	15	15
Brazil (terminated in 2005)	15	15	10/15	15/25
Bulgaria	15	15	0	5
Byelorussia	5	15	5	3/5
Canada	5	15	10	0/10
China (without Hong Kong and Macao)	10	10	10	7/10
Croatia	5	15	0	0
Cyprus	10	15	10	0/5
Czech Republic	5	15	0	5
Denmark	5	15	0	0
Ecuador	15	15	10/15	15
Egypt	15	15	15	15/25
Estonia	5	15	0/10	5/10
Finland	10	15	0	0/5
France	5	15	0	0
Georgia	0/5	10	0	0
Ghana	5	15	10	8
Greece	domestic rate	domestic rate	10	0
Hungary	5	15	0	0
Iceland	5	15	0	0
India	10	10	10	0/10
Indonesia	10	15	10	7.5/10/15
Iran	15	20	15	10
Ireland	10	10	0	0
Israel	25	25	15	0/5
Italy	15	15	0/10	0/5
Ivory Coast	15	15	15	10
Jamaica	15	10	10/12.5	10
Japan	15	15	10	10
Kasachstan	5	15	0/10	10
Kenya	15	15	15	15
Korea (Rep.)	5	15	10	2/10
Kuwait	5	10/15	0	10
Kyrgyzstan	5	15	5	10

Latvia	5	15	0/10	5/10
Liberia	10	15	10/20	10/20
Lithuania	5	15	0/10	5/10
Luxembourg	10	15	0	51
Malaysia	5	15	15	101
Malta	5	15	10	0/10
Mauritius	5	15	0	15
Mexico	5	15	10/15	10
Mongolia	5	10	10	10
Morocco	5	15	10	10
Namibia	10	15	0	10
Netherlands	10	15	0/15	0
New Zealand	15	15	10	10
Norway	0	15	0	0
Pakistan	10	15	10/20	0/10
Philippines	10	15	10/15	10/15
Poland	5	15	5/0	5
Portugal	15	15	10/15	10
Romania	5	15	3	3
Russia	5	15	0	0
Singapore	10	15	10	0
Slovak Republic	5	15	0	5
Slovenia	5	15	5	5
South Africa	7.5	15	10	0
Spain	10	15	10	5
Sri Lanka	15	15	10	10
Sweden	0	15	0	0
Switzerland	0	15	0	0
Tajikistan	5	15	0	5
Thailand	15	20	10/25	5/15
Trinidad and Tobago	10	20	10/15	0/10
Tunesia	10	15	10	10/15
Turkey	15	20	15	10
Ukraine	5	10	2/5	0/5
United Arab Emirates (terminated 8/08)	5	15	0	0
United Kingdom	15	15	0	01
United States	5	15	0	0
Uruguay	15	15	15	10/15
USSR – subsequing states	15	15	5	0
Uzbekistan	5	15	5	5/3
Venezuela	5	15	5	5
Vietnam	5/10	15	5	7.5/10
Yugoslavia – and subsequing states	15	15	0	10
Zambia	5	15	10	10
Zimbabwe	10	20	10	7.5

Please note:

Withholding tax rates under domestic law may be lower than the treaty rates or even be nil.

Only certain types of interest are subject to withholding tax under German tax law.

Under the EC Parent-Subsidiary Directive the withholding tax on dividends to companies in other EC member states is nil.

A few territorial exemptions have to be observed under which German treaties are not applicable.

The treaty between Germany and former Yugoslavia further applies to the Serbia, Bosnia-Herzegovina and Macedonia. The treaty between Germany and the former USSR further applies to Armenia, Moldova and Turkmenistan.

Individual Income Tax (1)

Taxable persons	Individuals.
Tax Residents	Worldwide income is subject to tax.
Non-residents	Only income from German source is subject to tax.
Tax residence in Germany	Residence[41] or habitual abode[42] in Germany.
Taxable income – most important categories (Please note that from 2009 onwards yields from capital investment, including capital gains, are subject to a 25% flat tax)	Trade (business) income. Income from self-employed activities[43]. Income from employment, Income from capital investment[44]. Rental income. Certain capital gains from the disposal of assets other than real estate realized within a holding period of 1 year[45]. Capital gains from the disposal of real estate within a holding period of 10 years.
Important types of exempt income	Income exempt under double taxation treaties. 50% of dividends. 50% of capital gains from the disposal of shares in corporate entities. Long-term capital gains[46]. Subsidies for the acquisition of fixed assets pursuant to the Investitionszulagegesetz.
Important types of exempt income paid or reimbursed by the employer	Mandatory social security contributions (employer's portion). Travelling expenses for business trips. Moving expenses for professional reasons. Double housing allowance. Kindergarten fees, voluntarily paid by employer. Certain pension schemes.
Important deductions from business income	Business expenses. Depreciation. Provisions[47]. Reserves on certain capital gains. Write-down to lower going concern value[48].

41 Normally an apartment or other rooms being available for living there qualify as a residence.
42 Six months test.
43 E.g. an architect.
44 Like dividends or interest.
45 E.g. securities.
46 If not income from trade or business.
47 Some types of provisions are not deductible.
48 A write-up is required if the going group value increases again.

Individual Income Tax (2)

Disallowed business expenses	Business expenses which are directly related to tax-exempt income. Certain taxes like individual income tax and solidarity surcharge. Entertainment expenses > 70% of reasonable costs. Gifts to persons who are not employees of the taxpayer, exceeding € 35 per person and per year. Penalties with punitive character. Interest expenses subject to thin capitalization rules[49].
Capitalization of business expenses	Expenses connected with the purchase, the production or the change of substance of an asset must be capitalized and depreciated; cost of maintenance and replacements are deductible.
Important general deductions	Basic allowance. Allowances for children. Allowances for certain insurances. Tax adviser fees, as far as related to income. 30% of fees for certain private schools. Certain donations[50]. Allowances for handicapped persons. Allowances for support of relatives without substantial own income and property. Loss carry over[51].
Tax rates	See table “Important Tax Rates - Individuals”.
Tax collection – overview	Annual tax assessments where payroll tax, prepayments of individual income tax and withholding taxes are credited against the annual tax liability[52].
Tax collection - income from employment	Payroll tax, to be withheld by the employer[53].
Tax collection - other income	Quarterly prepayments by the taxpayer.
Tax collection - certain types of income	Subject to withholding tax.

49 See corporate income tax.
50 Up to certain limits, donations to acknowledged entities for specific purposes are tax deductible
51 Carry back of tax losses: 1 year up to an amount of € 511,500.00. Carry forward of losses: up to € 1 million without limitation, exceeding amount deductible at 60%. Rest of losses to be carried forward to next years under the same rules.
52 In specific cases the payroll tax and the withholding taxes may be a final taxation.
53 The employer must either be resident in Germany or have a branch there.

Tax Depreciation

Accounting depreciation is based on the useful lifetime of an asset. For accounting purposes, the tax depreciation is generally acknowledged.

Depreciation methods	
Straight-line method	Equal amounts during the useful lifetime for all depreciable fixed assets including intangibles.
Declining-balance method (a fixed rate of depreciation up to 30% is applied to the declining residual book value of a movable asset)	Abolished for movable assets acquired after 2007.
Accelerated depreciation	In case of extraordinary use.
Production method	The depreciation rate varies according to the physical wear.
Pool method (acquisition cost > € 150 - € 1000)	Creation of a pool of such assets for every year. Mandatory depreciation of 20 % in the year of acquisition and the subsequent 4 years.
Depreciation rates for commercial buildings	
1. straight-line depreciation 2. declining-balance method	2% to 3%[54] for solid buildings. 3.3% - 12.5% for light weight constructions. 8 years 5% , then 6 years 2.5%, then 36 years 1.25%[55].
Examples[56] (straight-line method)	
Machinery Office equipment Office furniture Computers Telecommunication Cars, trucks, etc. Goodwill Land Shares in corporate entities Intangible assets with a limited useful lifetime[57] Low-value assets	6.25% to 12.5%. 10% to 16.67%. 7.7%. 33.3%. 12.5% (average). 11.15% to 16.7%. 6.67%. Not depreciable. Not depreciable. Depending on the useful lifetime. 100% (with acquisition cost (without VAT) of up to € 150).

[54] The rates depend on the date of the application for the construction permit or the date of purchase.
[55] If the building was purchased or the application filed after 31 December 1995 and is used for residential purposes.
[56] These are average rates. The useful lifetime of an asset can be derived from a schedule of recovery classes published by the German tax authorities.
[57] Straight-line method only.

Provisions (Accruals)

The creation of provisions (accruals) leads to expenses, their dissolution to income. Some provisions *must* be created in the balance sheet, others *can* be created. Where the business entity has an *option* to create provisions they are *not* tax deductible. The chart shows the treatment of the most important types of provisions. Their assessment is not described below.

Provisions for…	**Tax Treatment**
contingent liabilities (obligatory[58])	Tax deductible.
imminent losses from pending transactions (obligatory)	Not tax deductible.
omitted maintenance expenses which are spent in the first 3 months of the subsequent business year (obligatory)	Tax deductible.
omitted maintenance expenses which are spent between the 4th and the 12th month of the subsequent business year (option[59])	Not tax deductible.
guarantees granted without the requisite legal obligations (obligatory)	Tax deductible.
pension schemes (obligatory)	Generally tax deductible
liabilities which have to be paid only to the extent that future revenues or profits incur (obligatory)	Not tax deductible until such revenues or profits incurred.
anniversary bonuses promised to employees (obligatory)	Tax deductible under certain conditions.
acquisition or production of an asset	Not tax deductible.
fines assessed by German or EC courts or authorities (obligatory)	Tax deductible only in exceptional cases.
uncertain tax liabilities - obligatory if the enterprise is the taxpayer	Tax deductible if the tax is a deductible expense (like trade tax; e.g. corporate income tax is not deductible).
deferred taxes	Not tax deductible.

58 Obligatory = they must be created in the balance sheet under the Commercial Code.
59 Option = they can be created in the balance sheet.

Value Added Tax

Taxpayers = "entrepreneurs"	Corporations, partnerships, sole proprietorships and other business entities.
Taxable transactions	Domestic supplies of goods or services, imports of goods from outside the European Community (EC), intra-EC purchase of goods in Germany.
Standard rate	19%.
Reduced rate	7% (e.g. on certain agricultural supplies, cultural services like those of theaters, opera houses and museums, arrangers of concerts and theater performances, supplies of food items, newspapers, beverages and books).
Examples of zero-rated transactions	Exports of goods, sale of shares in a company, banking and insurance services, sale of land and buildings, rental of land and buildings.
Tax base	For supplies of goods and services: the consideration without the VAT; for imported goods: the customs value.
Input VAT from received supplies of services or supplies of goods and from imports of goods	Can be set off against the VAT liability if the goods or services are used for taxable supplies, including some specific zero-rated taxable supplies.
VAT compliance for registered taxpayers	Annual VAT tax returns/assessments; prepayments of VAT on the basis of monthly or quarterly VAT returns.
Foreign-resident taxpayers	are generally liable for VAT equal to German-resident taxpayers. They pay VAT either by means of VAT registration in Germany or by means of the reverse-charge mechanism. VAT refund for non-registered taxpayers is only possible if reciprocity[60] is given by the other state.
European Community	EC Law governs the VAT Acts of all member states ➔ uniform VAT law within EC

[60] The German Ministry of Finance updates the list of countries, which grant a VAT refund under the same conditions as Germany, on a regular basis. EC member states grant the reciprocity.

Labor Law

Residence permit	Required for foreign nationals[61]; to be obtained in their home country before entering Germany for a stay of more than 3 months. Prior approval from the local German immigration office[62] is required.
Work permit	Foreign nationals who intend to work as an employee in Germany generally also need a work permit. The work permit is granted by the local German employment office; the immigration office asks them for their consent to issue a visa. The employment office's approval should be available when applying for a visa at a German consulate or embassy. Members of the management board of a German corporate entity don`t need a work permit, only a residence permit.
Labor regulations	are based on contracts of employment, legislation and collective agreements[63]. Contracts of employment can either be in writing or as a verbal contract. Usually such contracts are in writing. Legal minimum vacation days p.a.: 20 days with a working time of 5 days per week = 24 days with a working time of 6 days per week. Employees are entitled to salary during their vacation and during the first six weeks of sickness. The official daily maximum working hours are 8 hours; however, exemptions and overtime are possible.
Social security system	==> "Important Tax Rates - Individuals".

[61] Except nationals of EU member states
[62] I.e. foreigners office - Auslaenderbehoerde
[63] Collective bargaining agreements – Tarifvertraege