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Austria
Tax

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This country-specific Q&A provides an overview of tax laws and regulations applicable in Austria.

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Austria: Tax

1. How often is tax law amended and what is the process?

Austrian tax laws are amended constantly. While rather minor amendments are often addressed in a bill directed at a totally different matter, major amendments generally take the form of a reform bill. Almost every year a Federal Tax Amendment Act is enacted to make more substantial amendments to Austrian tax laws. In addition to the federal legislative (Bundesgesetzgebung), Austria's nine federal states also have legislative powers to enact tax laws, which play, however, a rather subordinated role (except for special business lines like e.g., tourism levy, advertising tax, etseq.).

The legislative process provides that the Federal Parliament (Nationalrat) may pass a Federal tax bill either (i) upon proposal of the Federal Government (Bundesregierung), (ii) upon the initiative of a minimum of 5 members of the Federal Parliament, (iii) upon proposal of a parliamentary committee, provided that such proposal relates to the tasks of the acting parliamentary committee, or (iv) upon proposal of the Federal Council (Bundesrat).

During the legislative process several institutions and interest groups like the Chamber of Commerce, the Austrian Chamber of Tax Advisers and Public Accountants, the Bar Association, the Chamber of Labour, the Federation of Austrian Industry and many others may provide input, which, to a limited extent, is then taken into account before the bill is submitted to the Federal Parliament for a decision.

2. What are the principal administrative obligations of a taxpayer, i.e. regarding the filing of tax returns and the maintenance of records?

The annual tax returns for VAT and income tax / corporate income tax are generally due by 30 April, or 30 June in case of electronic filing, of each calendar year to be assessed. If the taxpayer is represented by a tax adviser, the annual tax returns are, at latest, due by the end of March of the second year following the calendar year to be assessed, unless the tax office requests earlier filing. Additionally, there are monthly or quarterly filing for VAT pre-payments.

Taxpayers falling under the scope of the Austrian Transfer Pricing Documentation Act must file a master and local file within one month upon request of the tax authority. The Country-by-Country-Report (CbC) if required has to be filed with the tax office within one year after the end of the pertaining accounting year.

All taxpayers must keep basic records relevant for taxation for at least 7 years. With respect to the statute of limitations, it is advisable to maintain records as long as the underlying tax assessments can be amended (generally 10 years after the end of the assessed periods). For VAT this period may extend up to 20 years (e.g., in case of real estate investments).

3. Who are the key tax authorities? How do they engage with taxpayers and how are tax issues resolved?

Federal tax matters are led by the Ministry of Finance.

The Ministry of Finance prepares draft tax bills for Federal tax laws, issues guidelines for the interpretation of tax provisions, negotiates the Austrian double tax treaties and has wide-ranging competences in international tax law matters, as, for example, informal rulings on tax questions may also be obtained from the Austrian Ministry of Finance (on a rather generic level via the so-called "Express-Answering-Service").

The tax offices are the main reference point for day-to-day tax matters of taxpayers. Some of the tax offices are specialised for certain tasks like the collection of stamp duties and transfer taxes or refund of withholding taxes to non-residents under a double taxation convention. Due to a recent reorganisation of the Austrian tax administration, as of 1 January 2021 there are only four tax offices (ie, a general tax office, a tax office for large businesses, a tax office in charge of customs and a tax office for combating tax fraud) each with different branches at different locations.

Taxpayers may also apply for binding advance tax rulings regarding restructurings, group taxation, international tax law (including e.g. transfer prices) and tax abuse. Since 1 January 2020 taxpayers can also obtain advance tax rulings on VAT issues. In other areas, informal rulings based on good faith may be obtained.

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The time needed to resolve an issue with the local tax office or the Ministry depends on the scope, the complexity of the issue and the availability.

4. Are tax disputes heard by a court, tribunal or body independent of the tax authority? How long do such proceedings generally take?

Taxpayers can appeal tax assessments deviating from the tax return filed or following an audit within one month whereby the tax authorities can extend this period upon taxpayer's request. Upon the filing of the appeal, the tax office has first the possibility to amend or withdraw its tax assessment or decision according to the appeal in an administrative appeal decision. The taxpayer can appeal this administrative appeal decision within one month, whereby the tax authority can extend this period as well. After the taxpayer has appealed against the administrative appeal decision, the case will be referred to the Federal Fiscal Court (judicial appeal). Against the decision of the Federal Fiscal Court the taxpayer can appeal to the Supreme Administrative Court (second level judicial appeal) or the Constitutional Court (the latter in case the assessment or decision violates a constitutional right or guarantee or an unconstitutional law was applied when rendering the contested decision).

The duration of judicial appeal proceedings heavily depends on the complexity of the relevant matters and the current workload of the court. Therefore, proceedings may be closed within several months, but may also take many years.

5. What are the typical deadlines for the payment of taxes? Do special rules apply to disputed amounts of tax?

Prepayments of (corporate) income tax are due by the middle of each annual quarter, i.e. on 15 February, 15 May, 15 August and 15 November of each calendar year. Prepayments of VAT are due by the 15th of the second month following the prepayment-period, which can be either the annual quarter or the calendar month (the latter is to be regarded if the annual turnover exceeds € 100,000). As regards the filing of annual tax returns, please see point 2 above.

The taxpayer has the right to appeal against tax assessment notices, in which case the assessed tax remains due and enforceable. But A suspension of enforcement of the assessed tax can be granted upon request, which, however requires that the appeal has a chance of success and the taxpayer does not jeopardise the enforcement of taxes. Assessed but suspended tax amounts carry monthly interest of 5.38% (which is the base interest rate plus 2%), which, however will only become once the appeal has been decided and the taxpayer (some of) the disputed tax amount.

6. Are tax authorities subject to a duty of confidentiality in respect of taxpayer data?

The data relating to tax matters are subject to a statutory non-disclosure requirement pursuant to which the tax authorities are not allowed to disclose any data they gained knowledge of during tax proceedings to third parties, including other public authorities. However, this general non-disclosure rule does not apply to certain exempt cases, e.g. the disclosure of data in connection with fiscal criminal proceedings or the disclosure of data in case the imperative public interest prevails.

7. Is this jurisdiction a signatory (or does it propose to become a signatory) to the Common Reporting Standard? Does it maintain (or intend to maintain) a public register of beneficial ownership?

Austria is a signatory of the Common Reporting Standard providing for the automatic exchange of information between member countries on financial accounts of non-residents. Austrian corporations have to disclose their beneficial ownership information to a central register kept by the Austrian Ministry of Finance.

8. What are the tests for determining residence of business entities (including transparent entities)?

A corporation is treated resident under Austrian tax law, if it has its registered seat or effective place of management in Austria. The effective place of management is the place where the day-to-day management decisions of a corporation are taken and prepared.

The vast majority of Austria's double taxation treaties determine a corporation's residence by using the effective place of management as a tie-breaker. Austria has not followed Art 4 of the MLI with its new rules for dual resident corporations.

Partnerships are regarded as transparent entities and therefore do not qualify as taxpayers in Austria. Hence, the income of partnerships is allocated proportionately to

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the shareholders, where it is then subject to taxation.

9. Do tax authorities in this jurisdiction target cross border transactions within an international group? If so, how?

Regular tax audits usually focus on VAT, CIT and withholding taxes and the tax authorities often scrutinize cross-border transactions, corporate reorganizations (mergers, de-mergers, contributions etseq.), transfer pricing issues or other transactional tax structures, such as debt-push down structures.

Apart from this, there are separate tax audits on wage-related taxes and social security contributions, which are either carried out by the tax authorities or by auditors of the social security institutions.

10. Is there a controlled foreign corporation (CFC) regime or equivalent?

In January 2019 a controlled foreign company (CFC) regime came into effect in Austria in order to implement the requirements of Art 7 of the Anti-Tax Avoidance Directive (ATAD) into national law. In summary, the domestic CFC regime provides that low taxed passive income (from interest, license income, dividends, income derived from sale of shares, income from finance leasing, income from activities of banks and insurance companies) of foreign controlled companies and permanent establishments is attributed to the controlling domestic corporation. The threshold for the so-called "low taxation" is met if the foreign controlled company is subject to a tax rate of 12.5% or less. The income of foreign controlled entities with significant economic activity in terms of personnel, equipment, assets and premises is exempt from the Austrian CFC regime.

Prior to having implemented the CFC regime, Austria used a switch-over regime pursuant to which dividends stemming from low taxed passive income were not exempt from taxation under the international participation exemption, but were subject to a foreign tax credit (credit instead of exemption method). Since the implementation of the CFC regime, however, the switch-over provision is only relevant for participations of less than 50%. The switch-over rule now does not apply to the extent that profits were already attributed to the controlling entity based on the CFC rules.

In January 2021, the Austrian legislator enacted an interest barrier regime as proposed by the ATAD with retroactive effect from 1 January 2021. The new rule is very much based on the corresponding Article 4 ATAD and contains nearly all of the reliefs provided for therein, such as the exemption for amounts up to EUR 3 million, the so-called equity-escape, the standalone exemption, and the extended carry-forward option.

11. Is there a transfer pricing regime? Is there a "thin capitalization" regime? Is there a "safe harbour" or is it possible to obtain an advance pricing agreement?

Austrian case law (of the Austrian Supreme Administrative Court) requires debt financing to be at arm's length, both in form and substance. In the past, the Austrian Supreme Administrative Court has also required sufficient equity capitalisation.

As regards transfer pricing, Austria has implemented Action 13 of the BEPS Action Plan for multinational enterprises (MNEs) in its Transfer Pricing Documentation Act. Accordingly, MNEs have to file the master file and/or their local file with the tax administration in case they exceed certain annual turnover thresholds (in general EUR 50 million). Large MNEs with a consolidated group revenue of at least EUR 750 million are subject to the CbC-reporting for accounting periods beginning on or after 1 January 2016.

Regardless of whether an Austrian affiliated entity falls under the increased documentation requirements for MNEs it is however necessary to keep adequate transfer pricing documentation explaining the cross-border inter-company relations.

Taxpayers may apply for a binding advance tax ruling with the competent local tax office regarding transfer pricing matters, based on the facts and circumstances to be presented by the taxpayer prior to their implementation. To a certain degree it is also possible to reach cross-border advance pricing arrangements on a bilateral or multilateral basis, which are of a rather general level. Although the taxpayer has no formal right to request such mutual agreements, the Austrian Ministry of Finance can negotiate with the other contracting state in order to clarify issues of interpretation of transfer prices on the basis of conventions for the avoidance of double taxation containing a provision that reflects Article 25 para 3 of the OECD MTC.

12. Is there a general anti-avoidance rule (GAAR) and, if so, how is it enforced by tax authorities

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(e.g. in negotiations, litigation)?

Austrian tax law comprises a GAAR. Transactions are deemed abusive and are therefore to be disregarded if they consist of several legal steps, which(i) have an unusual and inappropriate character and (ii) are only tax-driven. In addition, the Austrian law follows the substance over form approach. Both rules are used by the authorities on a regular basis to challenge tax structures, intragroup transactions and reorganizations.

In order to transpose Art 6 of the ATAD the general anti-avoidance rule (GAAR) was amended. The introduced explicit definition of the term "abuse" shall ensure, that the GAAR fully complies with the ATAD. From a practical point of view, it remains to be seen how the new definition will be interpreted by the Austrian courts and, as the Austrian GAAR applies to cases outside of the scope of ATAD, how the future case law of the CJEU will might influence the interpretation of the Austrian GAAR.

13. Is there a digital services tax? If so, is there an intention to withdraw or amend it once a multilateral solution is in place?

On 1 January 2020 the Austrian Digital Tax Act came into force, which provides that online advertising services rendered against consideration in Austria are subject to a 3% digital tax, if the servicing company's (i) worldwide turnover exceeds EUR 750mn and (ii) turnover within Austria exceeds EUR 25mn.

However, the act provides that the Austrian Minister of Finance shall periodically evaluate the necessity of the digital tax in light of any taxation measures of the EU or at OECD level concerning the digital economy. Therefore, it is expected that the Austrian Digital Tax Act will be either amended or withdrawn once measures at EU level or OECD level have been introduced.

On 21 October 2021 the US on one side and Austria, France, Italy, Spain and UK on the other side have issued a joint statement that they have agreed that the latter will not need to withdraw their unilaterally enacted digital services taxes and that the US will no longer request such withdrawal. However, the agreement includes that to the extent that the respective unilateral digital services taxes that accrue between 1 January 2022 and until BEPS Action 1 Pillar I (see point 14) takes effect exceed an amount equivalent to the tax due under Pillar I in the first full year of Pillar I's implementation, such excess amount of tax collected will be creditable against the portion of the corporate income tax liability.

14. Have any of the OECD BEPS recommendations, including the OECD's recent two-pillar solution to address the tax challenges arising from digitalisation of the economy, been implemented or are any planned to be implemented?

In general, the Austrian government is seeking to achieve a uniform approach, implementing the OECD recommendations according to the BEPS Action Plan and at the same time avoiding double efforts that might arise from different approaches at EU level.

In relation to the (original) BEPS Action 1 (digital economy) see point 12 for the Austrian Digital Tax Act. Regarding the newly pursued two-pillar approach to reform international taxation rules (Pillar I) and to establish a certain global minimum taxation (Pillar II) however, future developments at EU level remain to be seen.

As regards the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Multilateral Instrument or MLI) and Action 15, Austria has signed the MLI on 7 June 2017 and was one of the first countries to submit the ratification instrument to the depositary (the OECD Secretary General). A number of Austrian DTCs were adapted in the framework of the MLI (see point 15 below) to correspond to BEPS. As far as the prevention of treaty abuse is concerned (Action 6), the Austrian tax law has national anti-abuse rules.

With regard to action 4, the Austrian Ministry of Finance took the position that the existing regime restricting interest and royalty deduction (non-deductibility if payments are made to a related party and are subject to low taxation) being "equally effective" to the interest limitation rule set out in the ATAD. In July 2019 the EU Commission however stated that regarding said regulation an equal effectiveness is not given and opened formal infringement proceedings against Austria. In January 2021 the interest limitation rule (commonly referred to as "interest barrier") has eventually been implemented by the Austrian legislator (see point 10).

Action 7 (prevention of artificial avoidance of permanent establishment status) led to an update of the OECD MTC and its commentary and as such is, in general, followed by the Austrian tax authorities as an interpretation tool. As regards new rules of DTCs suggested by Action 7, a number of Austrian DTCs were adapted in the framework of the MLI. This concerns the commissionaire arrangements and similar structures, but Austria has not

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opted for the specific activity exemptions.

There are no special implementations of Actions 8 to 10 (change of transfer pricing rules with respect to value creation) in Austrian tax law. However, these actions are largely reflected in the update of the OECD Transfer Pricing Guidelines, which are used by the Austrian tax authorities as an interpretation tool. Austria generally follows the interpretation of the OECD, as it is laid down in the OECD Transfer Pricing Guidelines and the changes proposed by BEPS Actions 8–10 have also been included in the recently enacted Austrian Transfer Pricing Guidelines 2021. Using the example of the method for the identification of intangible assets (also defined in BEPS Actions 8–10), it shows that Austria generally follows the interpretation of the OECD, as it is also laid down in Chapter VI of the OECD Transfer Pricing Guidelines 2017.

Austrian tax authorities follow the principle that the economic owner of the IP is regarded as the person to whom the income derived from the IP has to be allocated for tax purposes. By the same token, the DEMPE principles, as described in BEPS Action 8, are followed by the Austrian tax authorities (i.e., that the person or persons who control the development, enhancement, maintenance, protection and exploitation of the intangibles are relevant for the determination of the economic owner of the intangible, which should be documented appropriately).

There is no implementation of Action 11 (monitoring of profit shifting) yet. Action 12 (disclosure of aggressive tax planning models) however has been implemented by the Austrian legislator in September 2019 in the course of the transposition of the amendment to Directive 2011/16/EU on mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (DAC6). Within the framework of this regulation (EU-Meldepflichtgesetz) certain cross-border structures and transactions must be communicated to the tax authorities on an ad hoc basis within 30 days after the triggering event, starting from 1 July 2020. Only events that fulfil certain hallmarks are reportable. Potentially reportable transactions might for example be cross-border transfers of intangible assets within a group of companies, debt equity swaps or transfer pricing arrangements using unilateral safe harbour rules.

Austria has fully implemented the OECD recommendations on Action 13 (re-examination of transfer pricing documentation) in its Transfer Pricing Documentation Act (TPDA) and in the implementing ordinance, specifying the master file and the local file, which is largely in accordance with the description given in Annexes I and II to Chapter V of the OECD Transfer Pricing Guidelines. For the mandatory automatic information exchange regarding the Country-by-Country reporting, the Austrian legislator has implemented Council Directive (EU) 2016/881 of May 25 2016 amending Directive 2011/16/EU, which is in line with the OECD recommendation on Article 13 of the final BEPS Report. Austria has implemented the Multinational Authority Agreement that extends the scope of participating countries of the automatic information exchange for the Country-by-Country reporting.

As regards Action 14 (arbitration rules in double taxation treaties), Austria has opted for the arbitration provision of the MLI.

15. How has the OECD BEPS program impacted tax policies?

Although not every BEPS related issue has been addressed by the Austrian government so far, BEPS led to substantive changes in Austrian tax policies and therefore to numerous amendments of the Austrian tax laws (for details see point 12 above), for example (i) the adaption of the Austrian domestic GAAR provision, (ii) the amendment of numerous Austrian double tax treaties in light of the principal purpose test stipulated in the MLI.

Contrary, a non-confirmatory BEPS indicated policy would be the reservation to the MLI made by Austria in relation to the creation of a PE by commissionaire structures (as suggested under BEPS Action 7).

16. Does the tax system broadly follow the OECD Model i.e. does it have taxation of: a) business profits, b) employment income and pensions, c) VAT (or other indirect tax), d) savings income and royalties, e) income from land, f) capital gains, g) stamp and/or capital duties? If so, what are the current rates and how are they applied?

Austria committed itself to the international standards of the OECD Model.

Resident corporations in Austria are subject to corporate income tax of 24% (which will be reduced to 23% in 2024) with their total income regardless of the source (e.g. business income, savings income and royalties, income from real estate) unless it is exempt from taxation. The most important items of exempt income are dividends and, under certain conditions, capital gains generated from the sale or other disposition of foreign shareholdings.

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The business profits of individuals are subject to personal income tax at a progressive rate starting at 20% (for net income above EUR 11,000) and going up to a maximum rate of 50% (for net income above EUR 90,000) and of 55% (for net income above EUR 1,000,000).

Employment income and pensions are also subject to personal income tax at the progressive rate. The employer has to withhold the income taxes on the employment income of its employees.

VAT is generally levied on the sale of goods and supply of services. The standard rate is 20%. Certain goods and services, however, are subject to a reduced tax rate of 10% (e.g. food, books) or 13% (e.g. plants, hotel accommodation).

Ordinary capital income (dividends, interest payments) of individuals is subject to a flat-rate tax of 27.5%. On certain savings income a flat-rate tax of 25% applies. Savings income and royalties of corporations are subject to corporate income tax of 25%.

Rental income of individuals is also subject to personal income tax at the progressive rate. Income derived by individuals from the disposal of real estate is subject to flat-tax rate of 30%. Income of corporations from renting or the disposal of real estate is subject to corporate income tax of 25%.

Private capital gains relating to shares in a corporation or other financial instruments are generally subject to a flat-tax rate of 27.5%. Capital gains of corporations are generally subject at the standard tax rate of 25%. However, gains from the sale of an international participation (i.e. the non-resident subsidiary is comparable to an Austrian company or is listed in the EU parent-subsidiary directive, the parent company holds at least 10% of the capital of the subsidiary for at least one year) are tax exempt.

Stamp duties are due on numerous legal transactions concluded in written form. The rates vary between 0.8% and 2%. Among such stamp-dutiable transactions are, for example: business lease agreements, sureties or the assignment of receivables.

17. Is business tax levied on, broadly, the revenue profits of a business computed in accordance with accounting principles?

In general, the determination of the taxable income is based on the Austrian GAAP account. However, adjustments are necessary to comply with specific tax provisions (e.g. different depreciation periods, tax reliefs etseq.).

18. Are common business vehicles such as companies, partnerships and trusts recognised as taxable entities or are they tax transparent?

Austrian tax law distinguishes between opaque and transparent entities.

Stock companies (*Aktiengesellschaften*, abbreviated as "AG"), limited liability companies (*Gesellschaften mit beschränkter Haftung*, abbreviated as "GmbH") and private foundations (*Privatstiftung*) are opaque for Austrian (corporate) income tax purposes. Income realised by such entities is subject to Austrian corporate income tax at level of such entities. These entities are also subject to VAT but private foundations may not run an active business, therefore, they hardly qualify as taxable person (entrepreneur) for VAT purposes.

Partnerships, as for example the general partnership (*Offene Gesellschaft*, abbreviated as "OG") and the limited partnership (*Kommanditgesellschaft*, abbreviated as "KG") are legal entities, but transparent for (corporate) income tax purposes. Income is taxed pro rata at the level of the partners. Partnerships can however be subject to VAT.

19. Is liability to business taxation based on tax residence or registration? If so, what are the tests?

Individuals having a domicile or their habitual abode in Austria or corporations having their corporate seat or their place of management in Austria are considered residents for Austrian income and corporate income tax purposes and in such cases are subject to unlimited taxation in Austria with their worldwide income.

Non-residents are taxed on the basis of a territorial system (involving taxation of PEs and other income sourced from Austria like income from immovable property located in Austria, Austrian dividends and Austrian interest payments to individuals under certain circumstances).

20. Are there any favourable taxation regimes for particular areas (e.g. enterprise zones) or sectors (e.g. financial services)?

There are no special taxation regimes, such as enterprise

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zones or favourable tax regimes for financial services or co-ordination centres.

21. Are there any special tax regimes for intellectual property, such as patent box?

There is no patent box, but a premium of 14% applies to R&D expenses for R&D inhouse activities performed in Austria.

Conversely, intra-group interest and royalties are non-deductible if the foreign receiving company is situated in a low tax jurisdiction (i.e. less than 10%).

22. Is fiscal consolidation permitted? Are groups of companies recognised for tax purposes and, if so, are there any jurisdictional limitations on what can constitute a tax group? Is there a group contribution system or can losses otherwise be relieved across group companies?

Austrian law provides a group taxation system both for corporate income and VAT purposes.

For corporate income tax purposes any domestic corporation having a common shareholder holding at least 50% in the share capital and voting rights of such corporation may elect to be a group member. The group will be headed by the common shareholder, which also has to fulfil certain requirements.

The income of each group member is calculated separately (including filing annual corporate income tax returns to the Austrian tax authorities) and is finally allocated to and consolidated at the head of the tax group. The heading corporation is the only entity of the group against which CIT will be levied (i.e., it receives the CIT assessment for the whole group).

It is also possible to include non-Austrian corporations into the group, provided that certain requirements are met. With respect to non-Austrian group members only tax losses will be included in the group consolidation on a pro-rata basis, if the subsidiary is a resident of a country with which Austria has concluded comprehensive mutual assistance agreements in tax matters. Any such loss will be subject to a recapture upon utilisation of the losses in the foreign jurisdiction in subsequent years or upon withdrawal from the tax group.

The group has a minimum duration of three calendar years; a recapture on a stand-alone basis takes place for all group members which are not meeting the minimum adherence of three full accounting years.

For VAT groups different criteria apply.

23. Are there any withholding taxes?

Apart from wage withholding tax, certain types of income from capital assets (e.g., dividends paid to non-resident companies) are, in general, subject to a capital withholding tax. Capital withholding tax amounts to 27.5% (currently 24%, and 23% for any income realised in 2024 or thereafter, if such income is paid to a corporation), unless a reduced rate applies under a double tax treaty. Dividends falling under the scope of the EU Parent-Subsidiary Directive (company form listed in the Directive; at least 10% shareholding, retention period of one year) are exempt from Austrian capital withholding tax, if the EU parent company has an active business and sufficient substance; otherwise a refund procedure can be initiated with the Austrian tax authorities.

Loan interest payments to non-resident companies are currently not subject to capital withholding tax as long as the loan is not secured with domestic real estate. Interest on bank deposit or certain publicly issued corporate bonds may trigger Austrian withholding tax at the above withholding tax rates, in case an Austrian paying agent or custodian is involved.

Royalties paid to non-resident companies are subject to a general withholding tax of 20%, unless a reduced rate applies under a tax treaty or are exempt from any withholding taxes pursuant to the EU Interest and Royalties Directive.

A withholding tax of 20% is also to be levied on fees for technical or commercial advisory services, unless the rate is reduced or the payments are exempt under an applicable tax treaty.

As of 1 January 2019 a special withholding tax applies on income derived from the letting of rights on land to infrastructural enterprises in connection with transmission of energy or use of cables below or above the surface in the public interest (e.g. electricity, gas, oil or heating), which amounts to 10% in case of individuals and 8.25% in case of corporations.

24. Are there any environmental taxes payable by businesses?

There are several taxes in Austria, whose tax base is in dependency of the impact on the environment, e.g. various forms of energy taxes (tax on electricity, gas,

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carbon, mineral oil, etc.), car-related taxes for cars with combustion engines (consumption tax, increased insurance tax, tax on motor vehicles).

25. Is dividend income received from resident and/or non-resident companies taxable?

Dividend income realised by tax resident corporations from domestic body corporates is tax exempt.

Dividend income realised by tax resident corporations from non-tax resident body corporates is exempt from Austrian corporate income tax under the international participation exemption if

- the non-Austrian body corporate is comparable to a domestic corporation or is an EU company listed in the EU Parent-Subsidiary Directive,
- the participation is held for more than 1 year,
- the shares in the foreign company constitute at least 10% of the nominal capital and
- the foreign company does not mainly derive low taxed passive income.

In addition, dividend income from portfolio participations (participation below 10%) in foreign companies is exempt from corporate income tax if the foreign company is comparable to a domestic company and is resident in a country with which Austria has agreed on a comprehensive exchange of information or is an EU company listed in the EU Parent-Subsidiary Directive.

For dividends from low-taxed passive body corporates Austria applies a switch-over regime (credit instead of exemption method) unless the CFC regime applied (see above point 10).

Individuals realising dividend income are subject to a flat-rate tax of 27.5% (certain exemptions apply).

26. What are the advantages and disadvantages offered by your jurisdiction to an international group seeking to relocate activities?

An advantage in relocating business activities to Austria may lie in the modern group taxation regime and the extensive double tax treaty network with more than 80 countries.

Austria has also very competitive R&D tax incentive regime. Further, Austrian provides that certain dividend income is tax exempt and neither levies inheritance/estate taxes or gift tax. This may particularly be of importance if the international group is family owned.

Further important factors are the generally strong political stability and the geographic location of Austria in the centre of Europe.

The gradual reduction of the corporate income tax rate to 24% for income realised in the calendar year 2023 and 23% for any income realized in 2024 thereafter, is also a step in the right direction.

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