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Germany
Tax

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

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Germany: Tax

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

German tax law is not amended at a specific date as a general rule. However, each year there is usually at least one so-called Annual Tax Act (*Jahressteuergesetz*), which contains a number of changes to the German tax laws. This will also be the case in 2023. In addition, there are a number of other legislative proposals with tax implications, such as the draft bills for the so-called Future Financing Act (*Zukunftsfinanzierungsgesetz*) and the so-called Growth Opportunities Act (*Wachstumschancengesetz*). In addition, key rules for a revision of the German real estate transfer tax (*Grunderwerbsteuer*) have been published by a commission, but the precise wording of the proposal was not yet published.

The process for the legislative changes at the federal level typically includes a draft bill that is subject to comment by political parties and certain interested stakeholders, such as industry groups affected by such changes and taxpayer associations.

The direct competence of the German Federal States and municipalities to amend German tax law is very limited. They are only competent for determining the locally applicable trade tax rate, the real estate transfer tax rate and local consumption and expenditure taxes such as the lodging tax. The underlying material law is determined at the federal level.

In addition, the German tax authorities regularly issue statements on the interpretation of certain individual German tax provisions. Although not binding for the courts, such statements of the German tax authorities have a great practical significance.

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

In general, taxpayers resident in Germany (individuals and legal entities) are required to file annual tax returns electronically. There are certain exemptions from the obligation to file an income tax return for employees, as their income tax has in principle already been paid in the form of wage tax withholding by the domestic employer.

Income tax returns are generally due by 31 July of the following year, or by the end of February of the following year, if the taxpayer is represented by a certified tax advisor or other tax professional authorized to provide tax advice. Due to COVID pandemic the period for the submission of the tax returns has been extended. Therefore, the tax returns for the year 2022 must be filed by October 2, 2023 and by 31 July 2024, if the taxpayer is represented by a tax professional. In addition, entrepreneurial entities must submit a tax balance sheet together with their annual tax return.

Certain events (e.g. real estate transactions or gifts) may require the taxpayer to file additional one-time tax returns.

Generally, the tax books and the records must be kept for 10 years. However, there are several exceptions depending on the type of records. Individual taxpayers have a limited obligation to maintain tax records.

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

The main tax authorities in Germany are the German Federal Ministry of Finance (*Bundesministerium der Finanzen*), the German Federal Central Tax Office (*Bundeszentralamt für Steuern*) and the Ministries of Finance of the 16 German Federal States with their regional and local tax offices.

The German Federal Ministry of Finance is the main tax authority in terms of drafting tax legislation and issuing (internal) guidelines for the interpretation of tax law provisions and regulations. It negotiates Germany's double taxation treaties and has far-reaching competences in international tax law matters.

The German Federal Central Tax Office is the main tax authority responsible for international tax law matters under the control of the German Federal Ministry of Finance. For example, the Federal Central Tax Office usually handles the refund of withholding taxes on dividend payments or royalties from foreign companies.

The Ministries of Finance of the German Federal States are the supervisory authorities for the regional and local tax offices. The regional tax offices supervise and assist the local tax offices in their general management and in certain tax law matters. The local tax offices are the taxpayer's primary contact for taxpayer's day-to-day tax matters, such as reviewing tax returns, issuing tax notices and collecting taxes. Taxpayers may also apply for binding tax rulings on the tax consequences of a proposed structure or transaction.

The time required to resolve an issue with the local tax authority depends on the scope and the complexity of the issue. On a regular basis, standard issues can be resolved directly with the competent local tax authority in a cooperative manner. Many local tax offices have demonstrated a practical approach. However, more complex issues may require more extensive negotiations involving the regional tax offices and even the German Federal Ministry of Finance. Such negotiations may take several months. Recently, proceedings at the Federal Central Tax Office in particular have taken a very long time.

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

In principle, tax disputes begin with a formal appeal against a tax notice or any other tax related decision to the tax authority. If the tax authority does not amend or revoke its tax notice or decision in accordance with the appeal, the taxpayer may challenge the tax notice or decision before the local fiscal court or the local administrative court, depending on the type of tax in dispute. The taxpayer may appeal against the decision of either court to the Federal Fiscal Court or to the Higher Administrative Court or to the Federal Administrative Court. Tax disputes can easily take several years to resolve.

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

There are fixed deadlines for the advance payment of personal income tax and corporate income tax: March 10, June 10, September 10 and December 10 of each year, and for the advance payment of trade tax: February 15, May 15, August 15 and November 15. Wage tax must be withheld on a monthly, quarterly or annual basis, depending on the amount of wage tax due.

Taxes that have been assessed, but appealed against are generally still due and enforceable. In order for the tax not to be paid, the taxpayer must apply to the competent tax authority or fiscal court for a suspension of enforcement. A suspension of enforcement must be granted, if there are serious doubts as to the legality of the underlying tax assessment. However, the suspension of payment gives rise to a monthly interest charge of 0.15% (1.8% p.a.) of the suspended tax payment, which becomes due only when the taxpayer is finally required to pay the disputed tax amount.

The interest rate for late payments was reduced in 2022 from 0.5% (6% p.a.) to 1.8% p.a. for all interest payments as of January 1, 2019 onwards, because the Federal Constitutional Court (*Bundesverfassungsgericht*) considered the 6% p.a. interest rate to constitute an unequal treatment of tax debtors who have already been finally assessed, compared to the much lower market interest rate as of 2014.

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

The data relating to tax matters is safeguarded against disclosure to third parties by the tax secrecy rule. The tax secrecy rule stipulates that the tax authorities must not disclose any data they gained knowledge of during the tax proceedings to any third party. However, there are several exceptions to the tax secrecy rule, like disclosure of facts in connection with criminal proceedings unrelated to tax.

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?

Germany is a signatory to the Multilateral Competent Authority Agreement and has therefore implemented the common reporting standard into national law. The first automatic exchange of tax-related information with other countries, such as information on bank accounts or realized capital gains, began in September 2017.

Germany has also implemented information exchange clauses in the vast majority of its double tax treaties, under which certain information can be disclosed to the tax authorities of other countries.

As of October 1, 2017, Germany maintains a public register of ultimate beneficial owners, the German Transparency Register (*Transparenzregister*). Among other things, any person who owns or controls 25% of the share capital or voting rights of an entity is treated as an ultimate beneficial owner (UBO), who must be identified by the entity or the financial intermediary and registered in the German Transparency Register. The rules on transparency obligations for UBOs have recently been amended. Although the interpretation of the new regulations is not entirely clear, there are now potential transparency obligations for all foreign entities that own German real estate or hold a direct or indirect 90% interest in an entity that owns German real estate. Due to a decision of the European Court of Justice, the public currently has very limited or no access to the information entered in the German Transparency Register.

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

Under German law, the tax residence of a corporation is determined by its statutory seat or place of effective management. The determination of the place of effective management is based on the day-to-day management of the business. In addition, the vast majority of double taxation treaties concluded by Germany determine residence on the basis of the place of effective management.

For tax transparent entities, the place of management and the place of permanent establishments are the criteria for determining the tax residence for trade tax purposes, if the entity is subject to trade tax.

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

Cross-border transactions within an international group of companies are a main focus of tax audits exercised by the German tax authorities. In particular, the tax authorities often question transfer pricing and the related documentation. If the documentation requirements are not met, the tax authorities are generally entitled to estimate the relevant prices, which in almost all cases results in a higher tax liability.

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

Germany has a CFC regime which was extensively revised in 2021 to implement EU ATAD requirements. The implementation leads to significantly stricter rules for many international companies and particularly affects foreign (intermediate) holding companies. Under the CFC regime, the income of a controlled foreign corporation is deemed to be attributable to the shareholder in proportion to its shareholding and is subject to German income tax, if and to the extent that

(i) more than 50% of the voting rights or of the shares in the nominal capital are directly or indirectly attributable to a person who is subject to limited or unlimited taxation in Germany alone or together with affiliated persons (participation of at least 25% or cooperation through concerted actions) or if the taxpayer is directly or indirectly entitled to more than 50% of the profits or liquidation proceeds of the company (reduced to 1% in the case of passive income with capital investment character),

(ii) the foreign company derives income from certain passive income sources; and

(iii) the income of the controlled foreign corporation is taxes at a low rate, i.e. the tax levied is less than 25%.

However, the German CFC rules provide for an exemption for corporations that have their statutory seat or their place of effective management within the EU or EEA. Such corporations can prove that their business has economic substance, that they are engaged in genuine commercial activities and they comply with the arm's length principle. In this case, the EU/EEA corporations are not considered to be a controlled foreign corporation under the German CFC rules.

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?

a. Transfer pricing

Germany has a transfer pricing system. As a matter of principle, transfer prices and all transactions between related parties must comply with the arm's length principle. There are several statutory rules for determining transfer prices for products, services or the transfer of functions. According to these rules, the prevailing methods for determining transfer prices are the cost-plus method, the comparable unrelated price method and the resale method. In principle, the full range of the values calculated by the different methods can be applied. However, as of 2022, the "best method approach" applies, according to which taxpayers must justify in detail, as part of the transfer pricing documentation, why the transfer pricing method they have chosen is the most appropriate method as part of the transfer pricing documentation. Previously, it was sufficient to use a "reasonable method".

Germany has strict rules regarding to the documentation of transfer pricing. Failure to comply with the documentation requirements may result in adverse consequences, as the tax authorities have the power to adjust transfer prices. In addition, there are penalties for failure to comply with certain transfer pricing documentation requirements. As part of the implementation of the DAC 7 Directive of the European Union, the German legislator has significantly tightened the documentation requirements as of January 1, 2025. In the event of an external audit, transfer pricing documentation must be provided within 30 days without being asked. Late submissions will be penalized with a surcharge of at least EUR 100 per full day of delay, up to a maximum of EUR 1 million.

Transfer pricing documentation generally consists of three parts above certain revenue thresholds:

(i) a so-called master file, in which the company must describe its worldwide business operations and the transfer pricing policy,

(ii) a local file, which must contain detailed information on the main intercompany transactions of the respective local company and its related parties; and

(iii) a country-by-country report (for consolidated group revenues of at least EUR 750 million).

b. Thin-cap regime

Germany does not have a thin capitalization regime, but an interest barrier rule. Generally, the interest barrier rule applies, if the annual net interest expense is EUR 3 Million or more. Under the interest barrier rule, the tax deductibility of interest expense on company's debt is limited to the amount of interest income plus 30% of the company's taxable EBITDA. Taxable EBITDA differs from financial EBITDA in that it is based solely on the company's taxable income. Therefore, any tax-exempt income is not included in taxable EBITDA. There are various exceptions and counter-exceptions to the interest barrier rule, e.g. for non-group companies. However, the Growth Opportunities Act provides for changes to these exceptions.

A case is pending before the German Federal Constitutional Court (*Bundesverfassungsgericht*) as to whether the interest barrier rule is in line with German constitutional law. As the interest barrier rule is now required by EU law, a decision by the German Federal Constitutional Court could have important consequences.

c. Safe harbour/Advance pricing agreements

Safe harbour

Germany plans to implement a safe harbor rule for the country-by-country reporting in connection with the implementation of the global minimum taxation rules.

Advance pricing agreements

Unilateral and multilateral advance pricing agreements are available in Germany.

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

The German General Fiscal Code contains a GAAR designed to prevent the abuse of legal structures to avoid or minimize taxation. Broadly speaking, abuse occurs when an inappropriate legal structure is chosen that, compared to an appropriate structure, results in tax benefits for the taxpayer or a third party that are not intended by the law. Conversely, there is no abuse if the taxpayer can demonstrate non-tax reasons for the chosen structure that are relevant from an overall perspective.

German tax authorities try to challenge legal structures mainly during tax audits, especially if they consider the structure to be aggressive. It is possible to resolve such disputes through negotiation. Occasionally, the tax authorities attempt to enforce the GAAR through assessment. The local fiscal courts and the German Federal Fiscal Court are more reluctant to apply the GAAR and apply it less extensively than the tax authorities.

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?

To date, there is no digital services tax in Germany to date. Germany initially supported the EU's proposed approach of a temporary digital service tax, but later opted for a coordinated solution for the taxation of the digital economy within the OECD framework.

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?

Germany had already implemented many rules that are part of the OECD BEPS recommendations prior to the recommendations, such as the CFC regime, treaty abuse (in particular treaty shopping), and the interest barrier rule. In addition, Germany introduced several new measures in its most recent BEPS-Transformation Act in 2016, such as a country-by-country reporting (see 9. above), exchange of information, and several specific changes to the German tax laws. In 2017, Germany also introduced a license barrier rule.

In addition, Germany has implemented the so-called DAC 6 Directive (see also 6. above) in 2020, which creates a reporting obligation for certain cross-border tax arrangements. In addition, Germany has issued a bill with respect to the ratification of the so-called Multilateral Instrument (BEPS Action 15). According to the current status of the bill, only tax treaties with the following countries will be covered: Austria, Croatia, Czech Republic, France, Greece, Hungary, Italy, Japan, Luxembourg, Malta, Romania, Slovakia, Spain and Turkey. Due to the so-called DAC 6 Directive of the European Union (Council Directive (EU) 2018/822), a reporting obligation for certain cross-border tax arrangements has been introduced in Germany in 2020. Recently, a draft bill for the so-called Growth Opportunities Act (*Wachstumschancengesetz*) was published, which provides for an extension of the reporting obligations to national tax arrangements as well.

In 2021, Germany implemented a bill for the implementation of the EU Anti-Tax-Avoidance-Directive. The bill contains legislative measures with respect to exit taxation, hybrid mismatches as well as amendments to the CFC rules (see also 9.a)), transfer pricing documentation and advance tax agreement procedures.

The OECD proposals on the taxation of the digital economy (Pillar One) and on global minimum taxation (Pillar Two) have not yet been implemented in Germany. However, a draft bill for the implementation of Pillar Two, i.e. the introduction of global minimum taxation, was published in July 2023. The new regulations shall apply from January 1, 2024.

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

While Germany has many of the features of the BEPS project already in place, it is reviewing and implementing legislation for specific changes needed to comply with the BEPS project.

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?

a) Taxation of business profits

Taxable business profit is calculated as the difference between income and expenses recognized for tax purposes. There are certain expenses that are not recognized for tax purposes, e.g. under the interest barrier rule (see 9. above). The business profit of an individual is subject to personal income tax at a progressive rate starting at 14% and rising to a maximum rate of 45%, plus a solidarity surcharge of 5.5% % on the income tax owed from an income of EUR 17,544 (resulting in a maximum tax burden of 47.48%) and, if applicable, church tax of 8% or 9% on the income tax owed.

The business profits of a corporation are determined on the basis of its German GAAP financial statements, adjusted for tax purposes and taxed at a flat corporate income tax rate of 15% plus a solidarity surcharge of 5.5% on the corporate income tax owed.

In addition, trade tax is levied on the taxable income of a corporation, although the taxable income calculated for trade tax purposes differs slightly from the calculation of the taxable income for corporate income tax purposes. The trade tax rate varies depending on the municipality in which the business is conducted. It generally ranges from a minimum of 7% to a maximum of 17.5%.

Trade tax is levied on an individual's business profits only, if a permanent establishment is maintained in Germany through which the business is carried out. The trade tax may be partially credited against the personal income tax liability for a trade or business, but not against the corporate income tax.

b) Taxation of employment income and pensions

Income from employment is also subject to personal income tax and is taxed at a progressive rate of between 14% and 45% plus a solidarity surcharge of 5.5% on the income tax owed from an income of EUR 17,544 and, if applicable, church tax on the income tax owed at a tax rate of 8% or 9%. Income tax on earned income is levied on a PAYE (Pay As You Earn) basis, which means that the tax is withheld by the employer from the employee's salary.

Pension income is subject to the same rate, but may be partially exempt depending on retirement age.

c) VAT (or other indirect tax)

The supply of goods and services is generally subject to VAT, although various exemptions apply. In some cases, there is an option to pay VAT, which can be advantageous, if VAT is charged on supplies received and can be reclaimed as input VAT. The standard German VAT rate is 19%; a reduced rate of 7% applies to certain goods and services.

d) Taxation of savings income and royalties

Income from savings of an individual, such as interest income, is taxed at a flat rate of 25% plus solidarity surcharge of 5.5% on the income tax owed from an income of EUR 17,544 and, if applicable, church tax of up to 9% on the income tax owed. The taxpayer may opt for the application of the individual rate, if it is advantageous. The tax on interest income is usually levied as a withholding tax. The same applies to other investment income such as dividends. However, various exceptions may apply.

Royalties from the licensing of rights earned by individuals are taxed at the individual progressive income tax rate of up to 45%, plus, if applicable, a solidarity surcharge of 5.5% on the income tax owed from an income of EUR 17,544 and, if applicable, church tax of 8 or 9% on the income tax owed.

e) Taxation of income from land

Income from the rental and leasing of land received by individuals is also subject to income tax and taxed by a rate up to 45% and from income tax owed of EUR 17.544 plus, if applicable, a solidarity surcharge of 5.5% on the income tax owed from an income of EUR 17,544 and, if applicable, church tax of 8 or 9% on the income tax owed.

f) Taxation of capital gains

Germany does not have a separate capital gains tax as such. Capital gains are treated as current income, but are subject to special treatment in the case of capital gains from the sale of shares or other financial instruments or when certain time periods have elapsed.

<u>Personal capital gains and capital gains from business assets of an individual</u>

Personal capital gains from the sale of shares in corporations or other financial instruments are generally taxed at a flat rate of 25% plus, if applicable, a solidarity surcharge and, if applicable, church tax.

If an individual sells shares in a corporation and holds or has held at least 1% in the corporation's share capital within the last 5 years or has held the shares as business assets, 40% of the capital gain is generally tax-exempt, whereas 60% of the capital gain is taxed as personal income of the individual at the applicable progressive tax rate (*Teileinkünfteverfahren*).

Capital gains realized by individuals from the sale of privately owned land and other assets are taxable only, if the land has been held for less than 10 years and, respectively in case the other assets have been held for less than 1 year.

<u>Capital gains of a corporation</u>

Capital gains of a corporation are taxed at regular tax rates. However, 95% of the capital gains from the sale of shares in a corporation are effectively tax-exempt and only 5% of the capital gain is treated as a non-deductible business expense. This exemption does not apply, under certain circumstances, to banks, other financial institutions, insurance companies and pension funds as shareholders.

Capital losses from the sale of shares by a corporate shareholder are generally not deductible.

g) Stamp duty and/or Capital duty

Germany does not levy stamp duty or capital duty.

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

The business profits calculated on the basis of the commercial balance sheet (GAAP) are the basis for the calculation of the taxable income of corporations, partnerships or individual entrepreneurs. On the basis of the commercial balance sheet, certain adjustments are made which result in the so-called tax balance sheet. There are also off-balance sheet additions and deductions for tax purposes, which ultimately lead to the taxable income.

18. Are common business vehicles such as

companies, partnerships and trusts recognised as taxable entities or are they tax transparent?

a) Taxable entities

German tax law distinguishes between tax-transparent entities, such as partnerships, and non-transparent entities, such as corporations. For income tax purposes, the taxable income of a partnership is generally allocated to the partners in proportion to their interests held and taxed at the level of the partners. German tax law provides for an exception to the tax transparency of partnerships, if profits are not distributed to the partners upon application. Corporations are treated as separate and independent from their shareholders, so that the taxable income is taxed at the level of the corporation itself.

With regard to trade tax, partnerships and corporations are subject to trade tax, if they are genuine or deemed trading businesses.

b) Business reasons for the usage of tax transparent entities

Tax transparent entities are particularly advantageous, if the partner wants to use losses from the business conducted with the partnership to reduce his personal tax burden. If the partner is an individual, part of the trade tax can be credited against the partner's personal income tax.

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

German tax law distinguishes between unlimited resident taxation and limited non-resident taxation. In the former case, the taxpayer is subject to taxation on its worldwide income, in the latter case, only certain income from German sources is subject to taxation.

A corporation is subject to unlimited taxation on its worldwide income, if its statutory seat or place of effective management is in Germany. Similarly, individuals are subject to unlimited taxation if they have their place of residence or their place of habitual abode in Germany.

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

Germany does not have special tax regimes for enterprise zones or favorable tax regimes for financial services or coordination centers. However, the provision of certain financial services is generally exempt from VAT.

The tax regimes differ mainly with respect to trade tax, as each municipality can set its own trade tax rate. The lowest possible trade tax rate is 7%.

In Helgoland (not a customs territory of the EU) and in Büsingen (exclave in Switzerland) VAT- and tax-free shopping is possible.

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

Germany does not have a special tax regime with respect for intellectual property. On the contrary, in 2017, Germany introduced a provision in its tax law that royalties paid for intellectual property and other rights are not deductible, if the royalties paid are subject to a low-tax preference regime, unless they qualify as a patent box under the BEPS nexus approach.

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?

Germany has a fiscal unity (*Organschaft*) system for income and trade tax purposes. Within a fiscal unity, profits and losses are aggregated and attributed to the parent company, which is liable for the taxes. The requirements for establishing a fiscal unity for income and trade tax purposes are quite complex and formalistic. Amongst other things, the parent company and the subsidiary must enter into a profit and loss pooling agreement, which, in principle, must have a minimum term of 5 full years. During this period, the profit and loss pooling agreement may only be terminated for good cause.

In addition, there is a fiscal unity for VAT purposes. All supplies of goods and services within the fiscal VAT unity are treated as non-taxable for VAT purposes.

23. Are there any withholding taxes?

Germany levies withholding taxes.

There is a withholding tax on distributed dividends at a rate of 25% plus, if applicable, a solidarity surcharge, a withholding tax on construction services performed in Germany at a rate of 15% plus, if applicable, a solidarity surcharge, and a withholding tax on royalties paid to non-resident taxpayers at a tax rate of 15% plus, if applicable, a solidarity surcharge.

Unless the creditor of the remuneration has a tax exemption certificate, the German debtor of the remuneration must withhold tax from the payment. According to a change of view by the German tax authorities since the end of 2020, income from the licensing or sale of intellectual property rights registered in Germany was retroactively subject to limited tax liability in Germany, even if the contracting parties do not have a direct business activity in Germany, and the royalties were subject to German withholding tax. However, this view was abolished retroactively for third party transactions in 2022 and this interpretation now only remains to apply to transactions between affiliated parties or, if the creditor of the remuneration is not resident in any tax jurisdiction or is resident in a non-cooperative tax jurisdiction within the meaning of Section 2 of the German Tax Haven Defense Act. Due to the German unilateral limitation of benefits, this also applies, if a double tax treaty or an EU directive provides for relief from withholding tax unless further requirements are met.

24. Are there any environmental taxes payable by businesses?

There are no true environmental taxes, but indirect taxes include several excise duties that are considered environmental taxes in terms of their subject matter, such as motor vehicle tax, mineral oil tax, energy and electricity tax. There are various exemptions from the liability of such indirect taxes.

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

95% of the dividend income received by corporations is effectively exempt from corporate income tax whereas 5% of the dividend received is treated as a non-deductible business expense therefore effectively subject to tax. This tax exemption generally applies only, if the corporate shareholder owns 10% or more of the shares of the corporation paying the dividend and requires that the payment was not deductible by the corporation.

The tax exemption does not apply, if the shareholder receiving the dividends is a financial institution, insurance company or pension fund. In addition, the tax exemption does not apply if the dividends have been deducted as business expenses at the level of the distributing company.

The dividend tax exemption generally also applies for trade tax purposes, if the shareholder receiving the dividend has held at least 15% of the shares of the distributing corporation since the beginning of the fiscal year and the distributing corporation derives its income principally from certain active business activities.

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

German law in general, as well as German tax law, is strictly applied according to the rule of law. In addition, Germany has a well-developed infrastructure, a highly skilled multilingual workforce, and is the geographic center of Europe, making it a good place to relocate for logistical reasons. Frankfurt am Main is considered the financial hub of continental Europe and is home to major financial regulators such as the ECB, providing direct access to key regulators and market participants. Finally, Germany is financially and economically robust.

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