

Tax system in Oesterreich

DOUBLE TAXATION AGREEMENTS

Double taxation agreements

The right to taxation in the event of sale of interests in property companies is subject to differing provisions. In accordance with the OECD Model Agreement, for those countries for which there is a “yes” in the real estate clause column the right to taxation lies generally not with the country of residence of the vendor but with the country in which the property is situated.

Country	Effective date*	Real estate clause	Dividends %	Interest %	Royalties %
Albania	01.09.2008	no	5/15	0/5	5
Algeria	01.12.2006	no	5/15	10	10
Armenia	01.03.2004	yes	5/15	10	5
Azerbaijan	23.02.2001	yes	5/10/15	0/10	5/10
Australia	01.09.1988	yes	15	10	10
Bahrain	01.02.2011	no	0	0	0
Barbados	01.04.2007	no	5/15	0	0
Belarus	09.03.2002	no	5/15	5	5
Belgium	28.06.1973	no	0/15	15	0/10

Country	Effective date*	Real estate clause	Dividends %	Interest %	Royalties %
Belize	01.12.2003	no	5/15	0	0
Bosnia and Herzegovina	01.01.2012	no	5/10	0/5	5
Brazil	01.07.1976	no	15	15	10/15/25
Bulgaria	03.02.2011	no	0/5	0/5	5
Canada	17.02.1981	yes	5/15	0/10	0/10
Chile	09.09.2015	yes	15	5/15	5/10
China	01.11.1992	yes	7/10	10	10
Croatia	27.06.2001	no	0/15	5	0
Cuba	12.09.2006	no	5/15	0/10	5

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Country	Effective date*	Real estate clause	Dividends %	Interest %	Royalties %
Cyprus	01.01.1991	yes	0/10	0	0
Czech Republic	22.03.2007	no	0/10	0	5
Denmark	27.03.2008	no	0/15	0	0
Egypt	28.10.1963	no	10	0	0/20
Estonia	12.11.2002	yes	0/5/15	0/10	5/10
Finland	01.04.2001	yes	0/10	0	5
France	01.09.1994	yes	0/15	0	0
Georgia	01.03.2006	no	0/5/10	0	0
Germany	18.08.2002	yes	0/5/15	0	0

Country	Effective date*	Real estate clause	Dividends %	Interest %	Royalties %
Greece	01.04.2009	no	0/5/15	0/8	0/7
Hong Kong	01.01.2011	yes	0/10	0	3
Hungary	09.02.1976	no	0/10	0	0
Iceland	01.03.2017	no	5/15	0	5
India	05.09.2001	yes	10	10	10
Indonesia	01.10.1988	no	10/15	10	10
Iran	11.07.2004	no	5/10	0/5	5
Ireland	05.01.1968	yes	0/10	0	0/10
Israel	01.03.2018	yes	0/10/15	5	0

Country	Effective date*	Real estate clause	Dividends %	Interest %	Royalties %
Italy	06.04.1985	no	0/15	10	0/10
Japan	27.10.2018	yes	0/10	0	0
Kazakhstan	01.03.2004	no	5/15	10	10
Korea	01.12.1987	yes	5/15	0/10	2/10
Kuwait	01.03.2004	no	0	0	10
Kosovo	28.12.2018	yes	15/0	10	0
Kyrgyzstan	01.05.2003	yes	5/15	10	10
Latvia	16.05.2007	yes	5/10	0/10	5/10
Liechtenstein	07.12.1970	no	0/15	0	5/10

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Country	Effective date*	Real estate clause	Dividends %	Interest %	Royalties %
Lithuania	17.11.2005	yes	5/15	10	5/10
Luxembourg	07.02.1964	no	0/5/15	0	0/10
Macedonia	20.11.2008	no	0/15	0	0
Malaysia	01.12.1990	no	5/10	0/15	10/5
Malta	13.07.1979	no	0/15	5	0/10
Mexico	01.01.2005	yes	5/10	0/10	10
Moldova	01.01.2005	no	5/15	0/5	5
Mongolia	01.10.2004	no	5/10	10	5/10
Montenegro	01.01.2016	no	5/10	10	5/10

Country	Effective date*	Real estate clause	Dividends %	Interest %	Royalties %
Morocco	12.11.2006	yes	5/10	10	10
Nepal	01.01.2002	no	5/10/15	10/15	15
Netherlands	21.04.1971	no	0/5/15	0	0/10
New Zealand	01.12.2007	yes	15	0/10	0
Norway	01.12.1996	no	15	0	0
Pakistan	01.06.2007	yes	10/15	0/15	10
Philippines	01.04.1982	yes	10/25	0/10/15	10/15
Poland	01.04.2005	yes	0/5/15	5	5
Portugal	27.02.1972	no	0/15	10	5/10

Country	Effective date*	Real estate clause	Dividends %	Interest %	Royalties %
Qatar	07.03.2012	no	0	0	5
Romania	01.02.2006	yes	0/5	0/3	3
Russia	30.12.2002	no	5/15	0	0
San Marino	01.12.2005	yes	0/15	0	0
Saudi Arabia	01.06.2007	yes	0/5	0/5	10
Sweden	29.12.1959	no	0/5/10	0	0/10
Switzerland	04.12.1974	no	0/15	0	0
Serbia	17.12.2010	yes	5/15	10	5/10
Singapore	22.10.2002	yes	0/10	5	5

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Country	Effective date*	Real estate clause	Dividends %	Interest %	Royalties %
Slovakia (CSSR)	12.02.1979 (01.01.1995)	no	0/10	0	5
Slovenia	01.02.1999	no	0/5/15	0/5	0/10
Spain	01.01.1968	no	0/10/15	5	5
South Africa	06.02.1997	no	5/15	0	0
Taiwan	01.01.2015	no	10	10	10
Tajikistan	01.07.2012	no	5/10	8	8
Thailand	01.07.1986	yes	10/25	10/25	15
Tunisia	04.09.1978	no	10/20	10	10/15
Turkey	01.10.2009	no	0/5/15	0/5/10/15	0/15

Country	Effective date*	Real estate clause	Dividends %	Interest %	Royalties %
Turkmenistan	01.02.2016	yes	0/15	0/10	0/10
UAE	01.09.2004	no	0/10	0	0
Ukraine	20.05.1999	yes	5/15	5	0/5/10
United Kingdom	01.03.2019	yes	0/10/15	0	0
USA	01.02.1998	yes	5/15	0	0/10
Uzbekistan	01.08.2001	no	5/15	10	5
Venezuela	17.03.2007	yes	5/15	4.95/10	5
Vietnam	01.01.2010	yes	0/5/10/15	0/10	10

Status as of January 1st, 2023 according to the Austrian Ministry of Finance (BMF) Signed but not yet effective are DTAs with Libya, Syria and Argentina. * For details of effective dates of application, see applicable DTA.

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TYPES OF ORGANISATIONS

Types of organisation

	<i>Name in local language</i>	<i>Registrable in commercial register / legal entity</i>	<i>Minimum capital</i>	<i>Sole shareholder company</i>
Limited liability company	Gesellschaft mit beschränkter Haftung (GmbH)	yes / yes	generally EUR 35,000 (EUR 70 per shareholder) in case of incorporation EUR 10,000 within the first 10 years possible	yes
Stock company/ European Company	Aktiengesellschaft (AG) / Europäische Gesellschaft	yes / yes	AG: EUR 70,000 SE: EUR 120,000	yes
Cooperative (with limited liability)	Genossenschaft mit beschränkter Haftung (Gen.mBH)	yes / yes	no	no
General partnership	Offene Gesellschaft (OG)	yes / generally	no	no
Limited partnership	Kommanditgesellschaft (KG)	yes / generally	no	no
Registered branch office	Eingetragene Zweigniederlassung	yes / no	no	n / a
Permanent establishment	Steuerliche Betriebsstätte	no / no	no	n / a

	<i>Capital tax / registration fees</i>	<i>Written form / notarization</i>	<i>Tax transparency</i>	<i>Registration with tax authorities</i>	<i>Statutory audit (revenues more than EUR 10 million, total assets more than EUR 5 million, more than 50 employees)</i>
Limited liability company	no / registration in Companies' Register	yes / yes	no	yes	if above statutory thresholds are exceeded accordingly
Joint stock company / SE	no / registration in Companies' Register	yes / yes	no	yes	obligatory
Cooperative (with limited liability)	no / registration in Companies' Register	yes / no	no	yes	if above statutory thresholds are exceeded accordingly
General partnership	no / registration in Companies' Register	recommended / no	yes	yes	no (if no individual has unlimited liability: yes, if above statutory thresholds are exceeded)
Limited partnership	no / registration in Companies' Register	recommended / no	yes	yes	no (if no individual has unlimited liability: yes, if above statutory thresholds are exceeded)
Registered branch office	no / registration in Companies' Register	n / a	n / a (yes)	yes	as part of any audit of the parent company
Permanent establishment	no / n / a	n / a	n / a (yes)	yes	as part of any audit of the parent company

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MERGERS & ACQUISITIONS

Financing

Financial assistance by the subsidiary

Very strict restrictions and disclosure requirements exist in Austria with respect to loans or guarantees granted by the subsidiary to the parent company in connection with the planned purchase ("prohibited repayment of contributions and capital").

Subordinate debt (mezzanine capital)

The use of subordinate debt is allowed.

Interest expenses for acquisition financing

Interest in connection with third party financing of the acquisition of shares is basically tax deductible. Deductibility is restricted for acquisition of investments within a group, for interest payments to low-taxed corporations within the group and in case of hybrid mismatches.

Interest expense on subordinate debt

deductible, to the extent that subordinated capital is to be treated as a liability for tax purposes and not as a (disguised) capital contribution. Generally, interest is deductible if the creditor does not participate in the goodwill and the liquidation proceeds. Interest expenses are not deductible if they are paid to low-taxed corporations within the group and in case of hybrid mismatches.

EU interest barrier

An interest surplus (excess of tax-deductible interest over taxable interest income of a financial year), is only deductible to the extent of 30% of the tax EBITDA. An allowance of EUR 3 Mio. is applicable.

Squeeze-out options

Buy-out of minority shareholders (squeeze-out)

Possible where there is an interest of at least 90% in the share capital (applicable to both joint stock corporations and limited liability companies), even if minority shareholders dissent.

Capital gains - corporations and partnerships

Sale of shares in a joint stock corporation

The gain of legal entities on the sale of shares in a joint stock corporation in general is taxable income. For international holdings different regulations apply.

Sale of shares in a limited liability company

The gain of legal entities on the sale of ownership interest in a limited liability company in general is taxable income. For international holdings different regulations apply.

Sale of interest in a partnership

The gain on the sale of an ownership interest in either a limited or general partnership (OG or KG) is normally taxable income for both limited and general partners.

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International participation exemption

Capital gains from an international participation are exempt if the company did not opt for taxation and there is no suspicion of abuse. The minimum holding period is 1 year and the minimum interest 10 % (for details see chapter Corporate income tax).

Sale of business

Definition

Sale of the business by individual sale of assets and liabilities ("asset deal") is possible.

Special labor law, leasing law etc. regulations have to be observed if employment contracts, leasing contracts etc. are to be transferred.

Valuation

For the sale of individual assets, the acquisition cost principle is applicable. The total purchase price is allocated to individual assets and liabilities at fair value, the difference constitutes goodwill. Badwill is not allowed for tax purposes.

Goodwill

For tax purposes, goodwill may generally be amortised linearly over 15 years.

Mergers and demergers

Types of mergers described by commercial law

Upstream merger (possibly down-stream), side- stream merger, takeover of the business by the main shareholder (not in case of a corporation), demerger.

Valuation

For financial accounting purposes, as a rule valuation of assets and liabilities is always optional.

Valuation in financial accounting

Method 1 – carrying values

Assets and liabilities recognized at carrying values, with difference possibly recognized as surplus on reorganization (under certain circumstances, as goodwill).

Method 2 – revaluation

Assets and liabilities are valued at fair value, the difference is recorded as goodwill.

Provision requirements have to be considered (e.g. deferred taxes)

Goodwill amortization

Where the Austrian Reorganization Tax Act (UmgrStG) is applied, amortisation is generally not permissible.

Tax treatment of revaluation

Revaluation of assets and goodwill amortisation are as a rule not tax deductible – mind distribution blocks!

Contributions (transfer of assets into the capital of a company)

Contributions in kind

In general, the contribution of assets is allowed (services cannot be contributed).

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Tax treatment

The exchange of individual assets against an interest in the company is treated like a purchase and sale transaction (at market value). Specifically, transaction expenses (e.g. property transfer tax and registration fees) and possible VAT ramifications should be taken into account.

A tax-neutral contribution in kind is generally possible in the case of the contribution of businesses and qualified capital shares.

Goodwill amortisation

For tax purposes, goodwill may generally be amortised linearly over 15 years.

VAT

Tax rates

Standard rate: 20%

reduced rate 10%

e.g. for certain restaurant services, lodging services and related services, books, electronic publication of books, art, for food, letting for residential purposes, newspapers, sheet music and cartographic products, certain repair services,

reduced rate 13%

e.g. for services regarding cultural and leisure activities (theater, cinema), living animals and plants, domestic flight

Supply of goods

Supply of goods and private use (self-supply) are taxable, as far as there are no exceptions

Place of supply of goods

in principle, wherever the object is situated at the time the power to dispose of the goods is acquired (static supply)

in the case of transport or dispatch by purchaser or supplier, where transport or dispatch begins (moving supply)

Import from third countries: if supplier is liable for import VAT, in importing country

Delivery by water, air or rail inside the EU: point of departure

Special provisions for chain and triangular transactions

Supply of services

Supply of services and private use / supply of services without consideration (self-supply) are taxable, as far as there are no exceptions

Place of supply of services A

A differentiation is made between services rendered

- to taxable persons ("Business to Business", "B2B") or
- to non-taxable persons ("Business to Customer", "B2C").

For purposes of determining the place of the supply of services,

- taxable persons (within the EU holding a VAT registration number) and
- non-taxable legal entities holding a VAT registration number will be considered as "taxable persons"

Basic rule

B2B	B2C
Place of recipient (The place where the recipient of services has established his business)	Place of supplier (The place where the supplier of services has established his business)

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Special cases

	B2B	B2C
Supplies of services by intermediaries	Place of recipient (basic rule)	Place of the underlying transaction
Property services	Place of property	Place of property
Cultural, artistic, scientific, educational, sports, entertainment or similar services, like services in connection with fairs and exhibitions including services of the respective organizer; not applicable for admission and services relating thereto	Place of recipient (basic rule)	Where the services are physically carried out
Admission and other related services for events like fairs and exhibitions	Place of the event (no Reverse Charge System for admission etc.)	Where the services are physically carried out
Passenger transport	Distances covered	Distances covered
Transportation of goods (without intra-community goods transportation)	Place of recipient (basic rule)	Distances covered
Intra-community goods transportation	Place of recipient (basic rule)	Place of departure
Ancillary transport services	Place of recipient (basic rule)	Where the services are physically carried out
Appraisal and processing of movable tangible objects	Place of recipient (basic rule)	Where the services are physically carried out
Restaurant and catering services	Where the services are physically carried out	Where the services are physically carried out
Restaurant and catering services in connection with intra-community passenger transport	Place of departure	Place of departure
Renting of means of transport for up to 30 days	Where the means of transport is actually put at the disposal of the customer	Where the means of transport is actually put at the disposal of the customer
Renting of means of transport for over 30 days	Place of recipient (basic rule)	Place of recipient Special regulations for renting pleasure boats
"Listed services" to third country customers 1)		Place of supplier
"Listed services" to customer in the EU		Place of supplier (basic rule)
Electronically supplied services, such as telecom, radio and TV services 2)	Place of recipient (basic rule)	Place of recipient ³⁾ as of January 1, 2019: place of supplier in case the total revenue does not exceed the amount of EUR 10,000 ⁴⁾

Mini-One-Stop-Shop (MOSS) / One-Stop-Shop (OSS)

Currently taxable persons from an EU member state or third country – who provide electronically supplied services, telecom, radio and TV services to consumers within the EU – can, subject to certain conditions, make use of simplifications within the MOSS system. The taxable person will thereby only be registered for VAT purposes in the member state where the headquarters of the economic activity and/or the permanent establishment are located.

As of July 1, 2021 a registration in the country of destination is not required anymore for the following services, because sales can be declared in one member state of the EU via the One-Stop-Shop (OSS) and VAT can be paid in a centralized way:

- B2C services
- Supplies to consumers: turnover threshold is eliminated (exception for micro-businesses).
- Import: Tax exemption for imports from goods with value < EUR 22 is eliminated; Import One-Stop-Shop (IOSS) is applicable for imports to consumers for goods with value < EUR 150
- Platforms: certain platforms are treated as if they delivered the goods by themselves (notional delivery); platform may become a tax debtor

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Reverse charge (reversal of tax liability)

Generally for all transnational supplies of services and work supplies; exceptions: entry tickets and toll

Requirements

Supplier is a foreigner (no residence, no place of business or permanent establishment in Austria involved in providing the service).
Customer is an entrepreneur
(even with non-taxable activities) or tax-exempt legal entity holding a VAT identification number, or a legal entity under public law

Consequences

Invoice without VAT, indication that tax liability is transferred to the customer, both parties' VAT registration numbers

Customer owes the VAT Supplier is liable for VAT

Special regulations

Special regulations apply for Austrian construction services, among others and areas susceptible to fraud (e.g. mobile phones, video game consoles, laptops) if the amount is at least EUR 5,000

Tax reliefs

Exemption (Input VAT deductible even though no VAT chargeable on supply of goods and services)

- Exports
- Intra-Community supplies
- Sales revenues for sea and air transport
- Processing under contract on goods for export
- Cross-border transport of goods
- Cross-border sea and air transport of passengers
- Mediation of above services
- Renting to diplomats

Zero rates ("non-genuine" tax exemption) (Input VAT is not deductible)

- Services of banks, insurance companies and pension funds
- Property sales (an option for tax liability is possible)
- Leasing of immovable properties that are neither used for residential purposes, parking lots nor short time rent (option for tax liability is possible under certain circumstances)
- Sales of doctors, dentists, midwives etc.
- Sales of small enterprises (net sales per calendar year not exceeding EUR 35,000; an option for tax liability is possible)

Deductible input VAT

For VAT and import VAT invoiced to the business for the supply of goods and services

Generally no deduction of input VAT with respect to:

- non-deductible expenses
- goods or services used for business at less than 10%
- acquisition, lease or rental and operation of passenger cars and station wagons (input tax deduction depending on specific prerequisites)
- zero-rated sales

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Input VAT correction

In case of fixed assets (resp. major repairs): If the circumstances which have been relevant for the input VAT deduction change subsequently, a corresponding positive or negative input VAT correction must be made.

As a general rule, the observation period for input VAT correction is 5 years. The observation period for input VAT correction related to properties is generally 20 years.

Real estate

Rentals

Rental and lease of real property is exempt (with certain exceptions);

lessor may opt for liability to tax, an option (regarding new tenancies) for purchased properties used for business purposes is only possible if the customer uses the property almost exclusively for supplies which do qualify for input VAT deduction (de minimis limit of 5%)

In case construction work had started before September 1, 2012 (also in case of new tenancies) opting for VAT is still unrestrictedly possible (so-called "constructor's privilege")

Exception

amongst others, rental for residential purposes (10%), accommodation (10%) resp. short-term rental of property (rental for a continuous period of

a maximum of 14 days), or of plant, equipment and garages (20%)

Sales

Sale of land is exempt, seller may opt for liability to tax at 20%

Refund of input VAT for Austrian taxable persons within the EU

Electronic application (via FinanzOnline) has to be made by the Austrian taxable person at its competent Austrian tax office at the latest by September 30 of the following year. Separate applications are required for each member state.

Filing of original invoices is only necessary if required by fiscal authorities of the respective member state.

Minimum amount of refundable input VAT: EUR 400 (EUR 50 if the refund period coincides with the calendar year)

Foreign taxable persons

Taxable persons with no place of business or permanent establishment in Austria

Registration

Mandatory (only for domestic supply of goods, toll and admission to events) if there are sales in Austria

Refund of input VAT for taxable persons domiciled in the EU

If no sales are made in Austria, electronic application at the competent tax office in the EU member state (originating country) of the taxable person by September 30 of the following year at the latest.

Refund of input VAT for taxable persons not domiciled in the EU

If no sales are made in Austria, refund has to be applied by June 30 of the following year at the latest.

Official form, original invoices to be submitted. Minimum input VAT refundable: EUR 400 (EUR 50 if the refund period coincides with the calendar year)

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GENERAL MANAGERS

Civil law

Contract of employment, contract for work and services, freelance contract for services, contract, etc.

Social insurance

Generally employees: insured with the ASVG

Exception: generally insured with the GSVG

Income tax

Employees: payroll tax including all non-wage labor costs

Self-employed: personal income tax, but generally with non-wage labor costs nevertheless

VAT

Employee: no VAT

Self-employed: VAT (option under certain circumstances)

Work permit

Work permits necessary for third-country nationals, easier conditions for key workers

For self-employment with contract for work and services, no work permit necessary

Residence permit / Settlement permit

Automatic right of residence and settlement for all EU/EEA citizens

Liability

In case of negligence, e.g., with respect to employer's taxes, delay in declaring insolvency, in case of insolvency generally with respect to VAT and payroll-related taxes

Minimum remuneration

Mostly subject to collective agreements, otherwise appropriate remuneration; fines in case of too low remuneration

SOCIAL INSURANCE AND NON-WAGE LABOR COST

Social insurance

Statutory health, accident and pension insurance

Contribution rates and maximum contributions

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Self-employed persons

Health insurance

6.80 %

Pension insurance

18.50 %

Obligatory pension fund

1.53 %

Accident insurance

EUR 10.97 per month

Maximum contribution

Contributions limited to a maximum of EUR 6.825,00 per month

Employed persons

Health and accident insurance

8.75 % (of which 3.87 % is the employee's share)

Pension insurance

22.8 % (of which 10.25 % is the employee's share)

Maximum contribution

Contributions limited to a maximum of EUR 5,850.00 per month (14 times a year)

Others

There is also unemployment insurance, and other ancillary contributions (e.g., Chamber of Labour levy)

Severance fund

1,53 %, no limit

Non-wage labor cost

Besides the employer contribution to social insurance, the employer has to bear non-wage labor costs in terms of a contribution to the family fund, a supplement to the employee contribution, community tax (also for independent contractors as defined by Austrian labor law). The contributions amount to about 7.3% and have no ceiling (Reduction to approx 7,1% possible as of 2023).

IMMOVABLE PROPERTY

Tax depreciation

Straight-line

Over the expected useful life of the asset, depletion allowances on natural resources (e.g., gravel)

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Additional

In the case of permanent impairment losses

Depreciation categories

Land

Only extraordinary depreciation

Buildings

Without evidence up to 2.5 % pa.; however residentially used buildings up to 1.5 % pa.

Leased and rental property: up to 1.5 % pa.

Shorter useful lives where supported by expert opinions, or in the case of lightweight construction (4 % pa.) and in case of construction before 1915 (2 % pa.).

Accelerated depreciation applicable regarding buildings with acquisition/construction after June 30, 2020; max. amount of three times the depreciation rate in the first year, and two times the depreciation rate in the second year - afterwards "normal" depreciation rate; half-year depreciation do not apply.

Tax base for buildings

Provided at least 80% directly used for business purposes (but with up to 20% private use), tax base is total acquisition and construction costs excluding land, otherwise, the proportionate share

In case of less than 20% business usage: building remains private property, but a proportion of the costs is allowable from the non-operating income: In general, 40% (sometimes also 20% or 30%, depending on the property's nature and location) of the acquisition costs of a developed property are presumed to be land

Special depreciation

Operating income:

Capitalizable expenditure incurred for maintenance of buildings classified as historic monuments can be spread and written off over 10 years

Renovation and renewal costs for residential buildings leased to individuals not involved in the business: expenses not covered by grants are to be written off over 15 years.

Non-operative income:

Under certain conditions, depreciation of production costs over 15 years possible. Regarding renovation and renewal costs for residential buildings see above.

Write-ups

Obligation to write up to a maximum of the historic acquisition costs

Real estate income tax

Object of taxation

Capital gains from the sale of operative and private real estate (irrespective of the holding period) by individuals

Exemptions: proportional tax rate is still applicable in particular for commercial property agents and for taxpayers whose business activities are focused on the transfer and sale of properties

Tax rate

30 % an option to regular taxation is possible; special rules for old real estate assets

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Tax collection

generally in the course of the calculation by attorney or notary public

Exemptions

- real estate, which had been used uninterruptedly as a main residence since acquisition or construction and for at least 2 years or for 5 years within the last 10 years before sale and main residence is given up
- self-constructed buildings, provided that these are not rented
- exchange of land in the course of reallocation or consolidation procedures
- sale of real estate as a result of (imminent) official intervention

Property transfer tax

Object of taxation

Transactions resulting in transfer of ownership of land in Austria, or of rights to use of land

Consolidation of ownership of share capital (≥ 95 % of shares) in a property company (partnership or corporation) into the hands of a single owner, or a group of companies or transfer of ≥ 95 % of the shares in case of partnerships (transfer of shares to new partners within 5 years relevant).

Types of property affected: land, buildings, additions, appurtenances, building rights, buildings on land owned by others; possibly avoidable in case of transfer of shares in companies

Basis of assessment

Basically the amount of the consideration, but at least the actual value of the property (minimum taxation basis)
the value of the property is determined by the market value resp. lump sum calculation
agricultural and forest properties: one time the assessed value

Tax rate

Rate determined by whether the transaction is

- with consideration
- without consideration
- partially with consideration

Legal definition:

purchase without consideration	consideration amounting to less than 30 % of land value
purchase made partially with consideration	consideration more than 30 % but not more than 70 % of the land value
purchase with consideration	consideration amounting to more than 70 % of land value

transfers with consideration are taxed at 3,5 % on the purchase price

taxation of purchases without consideration is determined based on a graduated taxation:

the first	EUR 250.000	0.50 %
the next	EUR 150.000	2%
beyond this amount	EUR 400.000	3.5 %

Always treated as a purchase without consideration:

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- Succession, inheritance (also outside the family unit)
- Acquisitions by living family members within a family unit

In the following cases the property transfer tax amounts up to 0.50 % (assessment basis is in general the value of the property):

- Change of shareholders in a partnership (in case of at least 95 % of the partners within 5 years)
- Consolidation of shares in regards of partnership and corporations (in case of at least 95 % of the shares)
- Transactions covered by the Austrian Reorganisation Act

Property-related taxes

Property tax

Objects of taxation

property in Austria:

- agricultural and forestry land
- real estate
- business assets consisting of company land

Basis of assessment determined by tax offices (based on the assessed value of the property)

Tax factor is generally 2‰

Real estate funds

Owner of the fund assets

The fund company, so that for the investor there is no entry in the property register and no property transfer tax.

Annual valuation

By two property experts

Borrowing

Maximum permissible: 50 %

Diversification of risk

At least 10 properties; value of any individual property not to exceed 20 % of total fund assets

at least 10 % and at most 49 % of the fund assets: cash, securities; or bank acceptance

no more than 49% of the shares in real-estate companies Special Purpose Funds: special rules

Tax liability

Ongoing taxation: proportional share of profits from rental and leasing, profit distributions made by domestic corporations and liquidity gain, and 80% of the increase in value (unless DTA-exempt).

in case of sale of share: Taxation of the value increase not yet taxed (20%)

Investment income withholding tax of 27.5% satisfies taxpayer's liability (in case of public placement), option to assess income as income from capital (up to 55% personal income tax)

foreign investment funds: OP

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TAX CONCESSIONS

Direct

Research premium: 14 % of expenditure; as of 2012 an expert report of the Austrian Research Promotion Agency (FFG) is necessary

Contract research: the client has a premium of 14 % of a maximum of EUR 1 million, as far as contractor does not apply for premium

Indirect

Income tax concessions, e.g.

monthly gross income up to approx. EUR 13,200, from then gradually increase up to 55%.

Certain profits: half personal income tax rate e.g. for the sale of a business unit in case of termination of business activities or gains spread over 3 years;

Capital income withholding tax: 25% (e.g. cash deposits with a financial institution) or 27.5 % (e.g. capital gains, dividends, or cryptoassets)

Tax on profits generated by real estate transactions: 30%

Tax credits

Adjusted to the level of inflation

Family Bonus Plus:

- until the children's age of 18: EUR 2,000 pa.;
- as of the children's age of 18: EUR 650 pa.;

Children surplus:

EUR 550 per child and year

Sole earner deduction pa.:

EUR 520 for one child;
EUR 704 for two children
for each additional child + EUR 232

Single parent deduction pa.:

EUR 520 for one child;
EUR 704 for two children
for each additional child + EUR 232

Child deduction:

EUR 62 / month for each child who is living in the EU/EEA or in Switzerland

Alimony deduction:

EUR 31 / month for the first child
EUR 47 / month for the second child
EUR 62 / month for each additional child if the child is living in the EU/EEA or in Switzerland.

If in employment / pension income p.a.:

Transportation deduction up to EUR 1,147
Retirement deduction up to EUR 1,278

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Allowances and exemptions

Profit allowance:

Investment-related profit allowance of up to 15% of taxable profit (except for gains on disposal); reduction of profit allowance for profits between TEUR 175 and TEUR 580, i.e. max. profit allowance EUR 45,350 per year; basic allowance of EUR 4,500 for all trade and business income (in case of lump sum option only basic allowance)

Investment allowance:

For certain depreciable fixed assets; acquisition/production after December 31, 2022. Basically, 10% of the acquisition or production costs or 15% if the assets are in the area of greening.

Cap: for acquisition or production costs of not more than EUR 1 million per business year.

Requirements: operating income, determination of profit by balance sheet or full receipts and payments accounting (cash basis accounting).

Unless exceptions apply.

Government subsidies

Government subsidies for home loan and retirement savings

Grant for employers for sick leave of employees – grant from AUVA

Training of employees by Public Employment Service Austria (AMS)

Interest subsidies from Austria Wirtschaftsservice (AWS)

Subsidies for electro-mobility: the acquisition of electric cars, loading facilities etc. is subsidised.

The government's most important aid measures in connection with COVID-19 can be found on our website at: <https://www.tpa-group.at/de/tag/covid-19/>

OTHER TAXES

Business tax

None

Wealth tax

None

Inheritance and gift tax

No, but notification requirement failure to report gifts/donations can result in penalties of up to 10 % of the fair market value of the not reported gift

Property transfer tax

Basically 3.5% of the consideration amount; concessions possible in specific cases. Property value corresponds to minimum basis of assessment.

Capital duties and fees

Contract duties

Lease agreement duty, generally 1 % (rental agreements for residential purposes are exempt from duties)

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Registration fees

Entries in the property register: 1.1 % etc.

Capital duty

None

FILING DATES AND DEADLINES

Annual tax returns

Personal income tax, corporate income tax and VAT return by April 30 of the following year;
when filed electronically, by June 30 of the following year;
Application for extension possible;
when represented by an authorized tax counsel, automatic extension under the quota regulation;

VAT interim returns

Quarterly (for annual turnover of up to EUR 100,000), otherwise monthly; by the 15th of the second month following the period of assessment.

European Sales Listing

By the last day of the month following the period of assessment (month or quarter)
Supply of goods: in case of later invoicing, the reporting deadline may be extended by one month at the most

CORPORATE INCOME TAXES

Object of taxation

Income

Tax rate

as of 2023: 24%; as of 2024: 23%

Tax liability**Unlimited**

Corporations resident or managed in Austria, on worldwide income.

Limited

Foreign legal entities neither resident nor managed in Austria, on certain income in Austria

Financial year

Calendar year, Deviating fiscal year is possible

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Accounting

Generally, double-entry bookkeeping in accordance with Austrian Business Code (UGB)

Loss carryback

not possible

Loss carryforward

Basically possible, certain set-off restrictions have to be observed; generally, not more than 75% of the annual profit can be compensated

Shell company purchase

Under certain circumstances, loss carryforwards may be lost in case of acquisition of shares and restructuring

Operating expenses

Expenses of the business

Transfer prices

Arm's-length basis, documentation required

Transfer pricing guidelines of Federal Ministry of Finance (BMF) as well as the Transfer Pricing Documentation Act (including guidelines) have to be observed

Interest on debt financing of acquisition of shares

generally deductible; no deductibility for acquisitions within the group and for interest payments to low-taxed corporations within the group;

Debt / equity

No legally defined limits, administration: a certain equity ratio must exist, borrowing must be on normal market terms and conditions. The interest barrier rule is in force since January 1, 2021 (see also chapter Mergers & Acquisitions)

Tax depreciation

Depreciation methods: straight-line depreciation, units-of-production method or degressive

Annually or semi-annually (in case of purchase in second half-year); exceptions e.g. for goodwill

Depreciation for extraordinary wear and tear, or write-offs to the lower actual value; write-offs of investments in companies generally to be spread over 7 years

Immediate depreciation of low-value assets worth less than EUR 1,000

Provisions

Provisions for severance and long-service benefits provisions for current and future pension claims; provisions for other uncertain liabilities or impending losses on open transactions

Not allowed: provisions for future expenses, provisions for business anniversaries

Long-term provisions for liabilities and impending losses (longer than 1 year) are discounted with a fixed interest of 3.5% pa. for tax purposes depending on their duration.

Motor vehicle expenses

depreciation over at least 8 years (new cars)

Maximum allowable acquisition costs: EUR 40,000 (new cars); special rules for "Fiskal-LKWs" (trucks qualifying for input VAT deduction)

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Non-deductible expenses

Entertainment expenses
(if predominantly for advertising purposes: 50%)
Illegal gifts and donations
Income taxes and VAT on non-deductible expenses
Remuneration of supervisory board members
Expenses directly related to non-taxable or tax-paid income/revenues (particularly for investment income)
Write-downs of subsidiaries, where write-downs are the result of distributions
Write-down of investment in tax group member as a general rule (disadvantage of group taxation)
Salaries and remuneration payments to employees exceeding
EUR 500,000 (projected) per person per financial year within the group
25% special tax for payments to undisclosed recipients (in addition to the refusal of the tax deduction of the payment)

Interest barrier

Interest surplus which exceeds 30% of the EBITDA and EUR 3 million (interest barrier) with rules for carryforwards

Interest and royalties to intra-group companies

non-deductible: Interest and royalty payments to intra-group companies, if the applicable tax rate is lower than 10% (nominal or effective, also in connection with later tax refunds) at the level of the receiving company.

Withholding taxes

Generally 20%; in the case of investment income, as a rule 27.5%.

A DTA can provide for a lower rate of taxation, relief is granted by refund or reduction at source (Double Taxation Relief Regulation: detailed evidence of entitlement required).

Austrian taxpayer's liability.

Interest

no withholding tax

Royalties

At 20 %, or per applicable DTA and applying EU Interest and Royalty Directive for group purposes

Dividends

At 27.5 % / 25% or per applicable DTA and applying the EU Parent-Subsidiary Directive for group purposes

Controlled foreign corporation (CFC) rules

Taxation of certain income of foreign corporations/permanent establishments at the level of the controlling Austrian corporation. The CFC rules will not apply if the controlled foreign company performs a substantial economic activity.

Requirements:

- Control of the foreign entity
- The passive income represents more than 1/3 of the foreign corporation's total income
- The effective taxation of the foreign entity in the foreign country is 12.5% or less

Hybrid mismatches

Mismatches which, due to differing fiscal recognition methods, lead to a different tax treatment in different countries and may under certain circumstances lead to profit shifting or profit reduction must be neutralized, i.e. as a rule, the related expenses are treated as non-tax-deductible.

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National parent- subsidiary exemption

No minimum holding period / no threshold

- Dividends are tax exempt
- Capital gains and write-ups are subject to tax
- Capital losses, liquidation losses and write-downs are generally deductible over 7 years

International investments

Investment more than 1 year and at least 10%

- Dividends are basically tax exempt
- Capital gains, losses and any other changes in value are generally tax exempt, nevertheless actual and final asset losses are tax deductible, but have to be reduced by tax-exempt dividends received within the last 5 years; an option for taxable status is possible, then capital losses, liquidation losses and write-downs are generally deductible over 7 years

International parent- subsidiary exemption and portfolio investments

Switch to credit method ("switch over") in case of foreign dividends and capital gains resulting from low-taxed passive income. A tax credit carryforward of foreign corporate income tax in certain cases is possible.

Portfolio investment:

Investment less than 1 year or less than 10%

Subsidiary in EU or certain EEA and third countries with extensive administrative cooperation agreement:

- Dividends basically tax-free
- Capital gains subject to tax
- Switch to credit method ("switch over") in case of qualified portfolio investments ($\geq 5\%$).

Goodwill amortisation

in case of asset deal: over 15 years

Group taxation / pooling

Tax groups

Companies linked in a financial hierarchy can under specified circumstances constitute a group for tax purposes. The taxable profits or losses of the members of a group are added to those of the taxable company in the group without consolidation (parent company, generally a limited liability company). Limitation regarding the deduction of losses of foreign group members.

Pooling

Pooling only exists for the purposes of VAT

INCOME TAXES

Tax rate

progressive staggered tax rates (income of individuals subject to limited tax liability in Austrian is increased by EUR 9,000); abolishment of the cold progression as of 01.01.2023

EUR 0 – 11,693.00: 0%

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EUR 11,693.01 - 19,134.00: 20%
EUR 19,134.01 - 32,075.00: 30%
EUR 32,075.01 - 62,080.00: 41%; 40% as of 2024
EUR 62,080.01 - 93,120.00: 48%
EUR 93,120.01 - 1,000,000: 50%
EUR 1,000,000 and more: 55% (until 2025)

Special tax rates

Income from capital: 25.0% and 27.5%, respectively
Income from real estate sales: 30%

Tax liability

Unlimited

on worldwide income (except where DTA restricts the right to assess tax):

Individuals with their residence or habitual abode in Austria

Limited

on certain income in Austria:

- Individuals, who have neither their residence nor their habitual abode in Austria, on certain income
- Individuals with their residence in Austria, if they fulfill the requirements for secondary residence (e.g., maximum 70 days in Austria annually)

Tax assessment period

Calendar year

Income categories

Income from

1. Agriculture and forestry
2. Self employment
3. Trade
4. Employment
5. Capital
6. Rents
7. Other (private annuity, speculation gains and certain real estate profits)

Accounting

Double-entry accounting

Small businesses and freelance professionals: receipts and payments accounting (cash basis accounting)

Obligation to maintain accounting records under Austrian

Tax Law Provisions (BAO), Austrian Business Code (UGB) or specific legislation

Loss set-offs

Internal set-offs

Horizontal set-off (within individual income categories)

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Vertical set-off (between individual income categories)

Exceptions, particularly for investment income, for real estate losses, in the other income category, and with certain loss models in case of limited liability

Loss carryback

not possible

Loss carry forward

Unlimited as to time for business income (categories 1-3), provided loss calculated on the basis of generally accepted accounting practices.
no carryforward / set-off restrictions

Operating expenses

Expenses of the business

Tax allowable expenses

Expenses for acquiring, securing or maintaining the revenue of the business

Lump sum option

Where income from self-employment, trade or business is accounted for on a cash basis, expenses may be calculated as a lump sum percentage; generally 6% partially 12%

Lump sum option for small enterprises (applicable to sales of up to EUR 40,000): Operating expenses will be calculated with the following percentages of the operating revenues:

- 45% in case of trading and production companies (to a maximum amount of EUR 18,900)
- 20% in case of service companies (to a maximum amount of EUR 8,400)
- additional deduction of social insurance contributions Lump-sum profits for agriculture and forestry and specific trades and professions

Motor vehicles

Depreciation over at least 8 years for passenger cars

Deduction of actual costs or official rate per kilometer (EUR 0.42; maximum 30,000 kms per year)

Maximum allowable acquisition costs: EUR 40,000 for passenger cars

Social insurance

deductible

Withholding tax

Where liability to tax is limited, withholding tax is as a rule 20%, in the case of investment income 25% respectively 27.5%, and real estate profits 30%. A DTA can provide for a lower rate of taxation, relief is granted by refund or reduction at source

(Double Taxation Relief Regulation: detailed evidence of entitlement required)

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Interest

Generally 25 % respectively 27.5 %

Automatic exchange of information with EU member states and certain third countries.

Royalties

20 % or applicable DTA

Dividends

27.5 % or applicable DTA

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