

Tax Law in Germany

Florian Haase

Daniela Steierberg

2nd edition

2016

C.H.BECK

Summary Table of Contents

Foreword to the 2 nd Edition	V
Table of Important Abbreviations	XXIII

Chapter 1: Introduction

A. Purpose of this book	1
B. Benefits for readers	2
C. Peculiarities of German tax law	2
D. Good to know – Useful information and recommendations for foreign investors	9

Chapter 2: Overview of the German tax system

A. Tax subjects; tax liability	19
B. Taxpayer	20
C. Taxable income	22
D. Corporate Income Tax	24
E. Trade Tax	25
F. Financial statements, accounting and reporting	25
G. Electronic tax balance sheet	26
H. Group taxation	27
I. Tax losses	27
J. Value-added Tax	28
K. Real Estate Tax	31
L. Real Estate Transfer Tax	31
M. Customs and excise duties when importing goods to Germany	33
N. Tax Incentives for Organisation of General Interest – charitable Organisations	33
O. EU Law	35
P. Tax Treaties	39
Q. Anti-treaty/Directive-shopping rule	40

R. CFC regulations	41
S. Assessment procedure	42
T. Filing and payment	43
U. Objection to tax assessment	44
V. Statute of limitation	45
W. German tax authorities	45
X. Tax audits	45
Y. Rulings	46

Chapter 3: Investment through German corporation

A. Establishment of a corporation	47
B. Forms of corporations	48
C. Taxation of corporations	51
D. Taxation of the shareholder	52
E. Thin capitalisation rules	52
F. Dividend taxation	55
G. Capital gains	55
H. Held for trading shares	56
I. Change in ownership rule	57
J. Trade taxable income	60
K. Tax group	62
L. Tax assessment period	66
M. Electronic Tax Declaration	66

Chapter 4: Investments through German partnerships

A. Overview	67
B. Available classes of partnerships	68
C. General taxation principles	69
D. Procedural aspects of income determination	82
E. Application of tax treaties	83
F. Inbound taxplanning with partnerships – Examples	89

Chapter 5: Investments through German permanent establishments

A. General	108
------------	-----

B. Taxation rules	114
C. Profit allocation	115
D. Inbound tax planning with permanent establishments – Examples . .	127

Chapter 6: Taxation of direct business activities

A. Introduction	136
B. Limited German tax liability	136

Chapter 7: Special tax problems of cross-border investments

A. VAT refund problems	151
B. German trade tax system	152
C. Thin capitalisation rules	155
D. Cross-border aspects of German tax groups	158
E. Dual consolidated loss rules	159
F. Bookkeeping abroad	159
G. Taxation of cross-border dividends	160
H. Taxation of royalty payments	165
I. Anti-abuse Regulations	166
J. Hybrid entities	173

Chapter 8: Tax problems of special industries/business sectors

A. Investment funds	192
B. Real estate sector	196
C. Shipping industry	205
D. Distribution models: Principal structures	210
E. M&A/Private Equity – cross-border reorganizations	213
F. Non-profit organizations	216
G. E-commerce	218
H. Leasing	221

Chapter 9: Holding companies in Germany

A. General	226
B. Acquisition	227
C. Financing	227

D. Comparison of corporation and partnership as holding company. . . .	228
E. VAT – entrepreneur status	230
F. Limited tax liability	230
G. Taxation of partnership	231
H. Participation exemption for corporations	233
J. Exit taxation	236
K. Reorganisations	238
L. CFC regulations	248

Chapter 10: Transfer pricing from a German perspective

A. Introduction	254
B. General provisions governing profit allocation between related parties	255
C. General principles for the allocation of income	259
D. Business restructurings: Relocation of functions	270
Index	279