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Company Formation in Austria

When considering an investment abroad thought must be given to taxation of income received as dividends and interest as well as any capital gains tax liability on disposing of the asset. Other points to be reviewed are deferral issues and utilisation of losses.

In many European Union states holding companies are treated favourably in matters of foreign sourced income and most have broad-ranging double taxation treaty arrangements. Within this section we provide you with a summary of current tax framework for holding entities as well as with key elements of company formation in Austria.

Company Formation in Austria

Legal Form

An Austrian Company can be constituted as an „Aktiengesellschaft“ (joint stock company – AG) or a „Gesellschaft mit beschränkter Haftung“ (private limited company – GmbH).

Share capital

The minimum share capital for a GmbH is €35,000 and for an AG € 70,000. The share capital of an AG must be fully paid up. For a company incorporated as a GmbH a minimum of € 17,500 or the equivalent of 50 % of the share capital must be paid up on incorporation.

Taxation

Corporate tax is a flat rate of 25 %. The minimum tax payable is € 1,750 for a GmbH and € 3,500 for an AG.

Capital duty of 1 % is levied on the amount of capital contributed to a new corporation or when the capital of an existing corporation is increased.

Income

The taxable income of an Austrian Company is based on the annual financial statements prepared in accordance with Austrian Corporate Law (UGB) or International Financial Reporting Standards (IFRS) subject to adjustments in accordance with Austrian Tax Law.

Dividends Exemption

Dividends received by an Austrian Company from:

- an Austrian subsidiary are exempt from corporate income tax, regardless of the amount of participation held.
- a non-EU/EEA resident subsidiary will not be subject to any tax if the parent company owns at least 10 % of the share capital for a minimum period of 1 year.
- an EU/EEA resident subsidiary are exempt from tax, regardless of any amount of participation held.

However, dividends deriving from abroad countries are subject to certain anti abuse rules like in particular a minimum taxation (15 %) and an operative income in the source country.

Capital Gains Exemption

Gains derived from the disposal of shares of a non-resident company in which the parent holds at least 10 % of the share capital for a period at least 1 year are exempt from tax. The previous rules applied to dividends must also be applied to capital gains.

Exemption from Withholding Tax on Payment of Dividends

Dividends paid are exempt from withholding tax if the following conditions are met:

- the recipient is an Austrian company that owns at least 25 % of the distributing company
- the recipient company is an EU resident (proved by a residence certificate) which owns at least 10 % of the distributing company for a minimum period of 1 year.

Exemption from Withholding Tax on Payment of Interest

Interest paid by an Austrian company, subject to unlimited corporation tax, to a parent company which owns at least 25 % of the payer for a minimum of 1 year no source - tax has to be withheld.

Tax deductibility of interest

Basically interest paid for financing the acquisition of a subsidiary are tax deductible. However, if the subsidiary is purchased from another group company, the interest paid become non-deductible.

Key Elements:

Formation	
Legal Form	Joint stock company (AG) Private limited company (GmbH)
Minimum Subscribed Capital	€ 70,000 (AG) € 35,000 (GmbH)
Minimum Paid-Up Capital:	€ 70,000 (AG) € 17,500 (GmbH)
Minimum Number of Shareholders	1 (AG) 1 (GmbH)
Taxation	
Capital Duty	1 %
Corporate Income Tax	25 %
Double Tax Treaties	approx. 80
Dividends Exemption	100 %
Holding Requirements	EU/EEA: 0 % and no tax abuse Non-resident: 10 % and no tax abuse
Capital Gains Exemption	Yes
Holding Requirements	10 % and 1 year, 15 % corporate tax
Tax Credit	Yes
Relief of Losses	Carry forward indefinitely Losses carried forward may only be offset against 75 % of the profits of the year
Withholding Taxes	
Dividends	EU Parent Co: 0 % (if conditions are met) Treaty Countries: 0 % - 10 % Others: 25 %
Interest	EU Parent Co: 0 % (if conditions are met) Treaty Countries: 0 % - 25 % Others: 25 %

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