Austria

Tax Guide

2016/17

FOREWORD

A country's tax regime is always a key factor for any business considering moving into new markets. What is the corporate tax rate? Are there any incentives for overseas businesses? Are there double tax treaties in place? How will foreign source income be taxed?

Since 1994, the PKF network of independent member firms, administered by PKF International Limited, has produced the PKF Worldwide Tax Guide (WWTG) to provide international businesses with the answers to these key tax questions.

As you will appreciate, the production of the WWTG is a huge team effort and we would like to thank all tax experts within PKF member firms who gave up their time to contribute the vital information on their country's taxes that forms the heart of this publication.

The PKF Worldwide Tax Guide 2016/17 (WWTG) is an annual publication that provides an overview of the taxation and business regulation regimes of the world's most significant trading countries. In compiling this publication, member firms of the PKF network have based their summaries on information current on 30 April 2016, while also noting imminent changes where necessary.

On a country-by-country basis, each summary such as this one, addresses the major taxes applicable to business; how taxable income is determined; sundry other related taxation and business issues; and the country's personal tax regime. The final section of each country summary sets out the Double Tax Treaty and Non-Treaty rates of tax withholding relating to the payment of dividends, interest, royalties and other related payments.

While the WWTG should not to be regarded as offering a complete explanation of the taxation issues in each country, we hope readers will use the publication as their first point of reference and then use the services of their local PKF member firm to provide specific information and advice.

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- Financial Planning / Wealth Management;
- Corporate Finance;
- Management Consultancy;
- IT Consultancy;
- Insolvency - Corporate and Personal;
- Taxation;
- Forensic Accounting; and,
- Hotel Consultancy.

In addition to the printed version of the WWTG, individual country taxation guides such as this are available in PDF format which can be downloaded from the PKF website at www.pkf.com

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BASIC FACTS

Full name:	Republic of Austria
Capital:	Vienna
Main language:	German
Population:	8.50 million (2014 Census)
Major religion:	Christianity
Monetary unit:	Euro (EUR)
Internet domain:	.at
Int. dialling code:	+43

KEY TAX POINTS

- Public and private limited companies and certain other entities, such as cooperative purchasing societies and mutual insurance companies, are subject to corporate income tax at 25%.
- Resident companies are subject to tax on their worldwide income. Non-resident companies are taxed on income attributable to an Austrian permanent establishment and certain other Austrian-sourced income.
- There is no specific capital gains tax for limited companies. Capital gains and losses are generally treated as ordinary business income (or loss) and are taxed at regular corporate income tax rates.
- The group taxation regime allows for offsetting losses against group profits. In certain cases, losses incurred by non-Austrian resident members of the group may be utilised.
- VAT is generally imposed on the delivery of goods and the supply of services within Austria by entrepreneurs within the scope of their business and on imports into Austrian customs territory.
- Austria imposes a 27,5% withholding tax on dividends, unless double taxation treaties provide otherwise. Withholding tax is also levied on royalties at 20% and interest from banks and financial instruments at 25%.
- Austrian resident individuals are subject to unlimited tax liability on their worldwide income, including income from trade or business, professional services, employment, property and investments.
- Non-resident individuals are only taxed on Austrian-sourced income. An individual is generally treated as resident in Austria if he or she is domiciled or establishes a habitual place of abode in Austria (including a six-month stay in Austria).

A. TAXES PAYABLE

COMPANY TAX

Public and private limited companies and certain other entities, such as cooperative purchasing societies and mutual insurance companies, are subject to corporate income tax at 25%. Limited companies incurring a tax loss or earning small profits must pay a minimum tax of EUR 1,750, EUR 3,500 or EUR 5,452 depending on the legal status of the company and the industry. A reduced minimum tax applies to the first 10 years upon incorporation. Non-resident companies are not subject to a minimum tax. Minimum tax may be credited against corporate tax payable in the following years.

Resident companies are subject to tax on their worldwide income. Non-resident companies are taxed on income attributable to an Austrian permanent establishment, immovable property located in Austria, deposits with Austrian banks, income from silent partnerships in Austria, income from leasing or renting certain property in Austria and income from commercial or industrial consulting or providing labour for domestic use. Companies are deemed to be resident if they are incorporated in Austria (ie. the registered office is in Austria) or have their place of effective management in Austria. The fiscal year usually runs from 1 January to 31 December, although a company can choose a different fiscal year under certain circumstances. Corporate income tax is assessed on an annual basis. However, quarterly advance payments have to be made.

CAPITAL GAINS TAX

There is no specific capital gains tax for limited companies in Austria. Capital gains and losses are generally treated as ordinary business income (or loss) and are taxed at standard corporate income tax rates. Special rules apply to capital gains and losses on property sold by legal entities other than limited companies. The sale of a property by individuals and non-corporate businesses is subject to income tax at a reduced rate of 30% regardless of the holding period. Special rules apply to the calculation of the tax basis for long holding periods and property purchased before 2002. Deductions are quite restricted.

Exemptions apply to privately owned, main residencies. Another exemption from capital gains taxation applies to real estate newly built at the seller's own risk unless rented out during the last 10 years before sale. Capital gains from financial instruments held by private persons are taxed at a reduced rate of 25% or 27.5% regardless of the holding period. Some capital gains are also taxed with the regular income tax rate (e.g. income from personal loans).

BRANCH PROFITS TAX

There is no branch profits tax in Austria. Austrian branches of foreign companies are subject to Austrian (corporate) income tax on Austrian-sourced income only.

SALES TAX/VALUE ADDED TAX (VAT)

VAT is generally imposed on the delivery of goods and supply of services within Austria by entrepreneurs within the scope of their business and on imports into Austrian customs territory.

The standard VAT rate is 20%. A reduced rate of 10% or 13% applies for example to food or hotel stays. Some transactions such as exports and intra-community sales B2B are zero-rated. A number of transactions are exempt from VAT, e.g. sale of financial assets, insurance premiums. VAT is generally assessed on a calendar year basis. Monthly or quarterly preliminary returns have to be filed.

FRINGE BENEFITS TAX (FBT)

Fringe benefits are subject to salary tax according to the value of the benefit in kind. The fringe benefits are taxed on the employee. These include e.g. the private use of a company vehicle, free meals or interest-free loans.

LOCAL TAXES

A municipal tax of 3% is levied on the gross payroll of enterprises. In addition, municipalities levy land and property taxes.

OTHER TAXES

Austria imposes a number of other taxes such as:
- A 1% capital transfer tax on contributions to company capital (will be abolished by Jan 1, 2016).
- A real estate transfer tax of 0.5% to 3.5% of the real estate value or, alternatively, based upon a

deemed tax value for some transactions (which is usually not less than the market value).

- Insurance tax on insurance premiums, ranging from 1% to 11%.
- Social security is payable both by employers and employees with a capped basis of € 68,040 p.a. or € 4,860 p.m. (14 salary payments). The employee rate ranges from 15.1% to 18.9% depending on the employee's status, age and type of income. The employer rate ranges roughly from 16.8 to 25.9%. Apart from social security contributions, employers have to pay up to 9.5% salary-related charges on top of gross salary. The total staff costs amount to approximately 130% of gross salary.
- Stamp duties are due on certain transactions and documents.
- Austria does not levy any tax on inheritance or gifts. No tax is imposed on gratuitous transfers (except for land transfer tax) but mandatory reporting on such transfers exceeding certain limits has been implemented.

B. DETERMINATION OF TAXABLE INCOME

Taxable income is calculated as balance between taxable income and allowed deductions. Generally, to be deductible, losses and expenses must have been incurred to generate taxable income. Restrictions on deductions apply to capital gains from the sale of properties and financial instruments. From 2014 management compensation exceeding EUR 500,000 per annum is disallowed as deduction for the employer's corporate income tax. Another restriction introduced recently applies to long-term (exceeding one year) provisions where the deductible amount is calculated as the net present value at a discount rate of 3.5% p.a.

Taxable income is based on the profit or loss shown in the financial statements prepared according to Austrian GAAP (called UGB). The accounting profit/loss is then adjusted for special tax rules according to the Income Tax Act. Non-deductible taxes (e.g. corporate tax) and non-deductible expenses (such as donations and general provisions) are added. On the other hand, special allowances and non-taxable income (dividends and losses carried forward) may be deducted. Under certain circumstances Austria also allows to deduct foreign losses incurred in permanent establishments or in subsidiaries under the group taxation regime.

CAPITAL ALLOWANCES

There are some special capital allowances in Austria that are particularly applicable to small and medium-sized enterprises.

DEPRECIATION

Assets subject to wear and tear have to be depreciated using the straight-line method. If an asset costs less than EUR 400 it can be written off immediately in the period of acquisition. The Income Tax Act stipulates fixed depreciation rates for buildings, ranging between 1,5% and 2,5% (depending on the use and type of building). For company cars, the Income Tax Act stipulates a fixed useful life of eight years for both acquisition and leasing. The costs of goodwill must be depreciated over fifteen years. Other assets are depreciated over their useful life.

STOCK / INVENTORY

Stock is valued at the lower of cost or market value. Where inventory is valued according to the cost price, the FIFO method is generally accepted. Fungible goods may also be valued by using the weighted average cost method.

CAPITAL GAINS AND LOSSES

Under certain circumstances, roll-over of capital gains is allowed for individuals, trusts or partnerships but not for limited companies. If fixed assets are sold, gains resulting from disposal may be deducted from the cost of investments made in the same period or may be allocated to a tax-free reserve to be used against investments within the following 12 or 24 months. Any amounts not used within this period are subject to tax.

Several restrictions apply to the roll-over of capital gains (e.g. not applicable for limited companies). For corporate businesses there is no difference in the tax treatment of capital losses versus trading losses. For international participations, one can choose between tax-free treatment (capital gains and losses, depreciation is treated as neutral for tax-assessment) or taxable treatment. The declared option is irrevocably binding for the future. For privately held financial instruments the bank collects a withholding tax of 25% to 27.5% on capital gains.

DIVIDENDS

There is a final withholding tax of 25% on domestic dividends (27.5% if the participation is held by a private person). Withholding tax does not apply to dividends received by:

- An Austrian company holding an interest of at least 10% in the distributing company;
- A foreign resident company holding an interest of at least 10% in the distributing company for a minimum period of one year.

Where withholding tax is incurred on dividends paid between Austrian resident companies, this is creditable against the recipient's corporate income tax liability. In accordance with double taxation treaties withholding tax on dividends may be reduced at source or through a refund procedure.

INTEREST DEDUCTIONS

Interest is deductible on an accruals basis. Austria does not apply a general thin-capitalisation regime but allows deduction of costs from debt financing rather to a large extent. An important exception however was introduced on March 1, 2014 where by interest payable on intra-group loans are only allowed for deduction if the lender is subject to a 10% income tax on the interest earned in his domicile. In other words, there is no deduction for interest paid to intra-group financial holdings in tax havens. The same restriction applies to royalties.

Interest income from bank deposits and securities is subject to a withholding tax of 25%. The withholding tax on interest is a final tax (income, donation, inheritance) for individuals. Interest income earned by a company is part of its business income and therefore subject to 25% corporate tax. For such companies, the withholding tax will be credited to corporate income tax due.

LOSSES

Losses incurred by companies may be set off against trading income and capital gains of the same accounting period. Excess losses may be carried forward indefinitely, but not carried back. However, losses carried forward may only be set off against the current income, i.e. a minimum of 25% of the income is subject to corporate income tax, regardless of losses carried forward. The excess loss may be credited against profits in consecutive years.

Losses incurred by individuals can be carried forward indefinitely if they stem from business sources; losses from other sources, e.g. rental income or capital assets on the other hand cannot be carried forward by individuals. Losses by individuals that incur from business investments without active participation in management, are limited to the contribution paid. Any further losses can only be offset against future profits from the same income. The 25% minimum taxable income does neither apply to individuals.

FOREIGN-SOURCED INCOME

A resident company is subject to corporate income tax on its worldwide income. Income from foreign sources is taxable in Austria according to double taxation treaty rules. Austria does not apply specific controlled foreign company (CFC) legislation. However, to avoid tax abuse, dividends from international participations located in tax havens may be taxed in Austria if certain anti-abuse criteria are met.

INVESTMENT ALLOWANCE / INCENTIVES

Under certain circumstances, the taxation of realised capital gains can be avoided or deferred by transferring the amount to an untaxed roll-over reserve. There are special allowances and/or tax incentives for apprenticeships and research and development (up to 12% allowance).

A further allowance for individuals and partnerships allows for 13% of annual profits to be exempt from tax provided the allowance amount (other than the first EUR 30,000 of profit) is invested in certain tangible assets or specific securities with a holding period of at least four years. The allowance is reduced to 7% for that proportion of annual profits between EUR 175,000 and EUR 350,000 and to 4.5% for that proportion of annual profits between EUR 350,000 and EUR 580,000. No allowance is available for annual profits that exceed EUR 580,000.

TRUSTS (PRIVATE FOUNDATION)

An Austrian Trust is a legal entity in civil law in which a donor transfers assets in order to achieve the objects of the trust. Quite often, the purpose of a trust is part of estate planning to care for family members ('family trust'). Trusts enjoy some minor tax advantages as certain forms of income (e.g. certain capital gains, dividends, interest) are not subject to corporate income tax at the trust level. The transfers to private trusts are subject to a fixed rate of 2.5% donation tax.

Where real estate is transferred, transfer tax (from 0,5% to 3,5% of the real estate value) and donation tax must be paid. Transfers by the trust to its beneficiaries (natural persons) are subject to withholding tax. Trusts (Private Foundations) are subject to special tax regimes that vary from company taxation in quite a number of significant aspects.

C. FOREIGN TAX RELIEF

Austria has concluded a number of double taxation treaties with other countries. Generally, an Austrian resident is subject to taxation in Austria. The double taxation treaties may either exempt foreign-sourced income or grant a credit against Austrian tax for foreign taxes paid on the same income or gain in the same fiscal period.

D. CORPORATE GROUPS

There is a special regime for the taxation of corporate groups where profits and losses can be set off within the group. The parent (or head of the national group) must be a resident corporation or permanent establishment of an EC-corporation. Basically, the parent must hold more than 50% of the shares and voting rights in any member of the group directly or indirectly and the group status must be kept for a minimum period of three years. Losses from non-resident group members (restrictions apply to members in tax havens and countries where Austria has not concluded a treaty with a comprehensive administrative assistance clause) reduce the Austrian tax basis (subsequent taxation of these losses applies if the foreign group member can realise losses carried forward in the future). If a member leaves the group for whatever reason before expiration of the minimum period, tax will be assessed as if it had never been a group member.

Losses arising in relation to a member's investment in another member of the corporate group are generally not deductible (for example, a realised loss on disposal of a subsidiary or impairment loss). The group taxation provides a considerably attractive tax instrument for corporate groups in Austria. However, thorough long-term tax planning is key to efficient utilisation of these provisions.

E. RELATED PARTY TRANSACTIONS

The arm's length principle applies. In this context, the 'substance-over-form' principle, which is a general principle of Austrian income tax, has to be strictly observed. This implies that a transaction must be assessed according to its economic effect and not according to the legal form it takes. The tax administration introduced guidelines for transfer pricing basically relying on the OECD Transfer

Pricing Guidelines. Particular restrictions apply to deductibility of intra-group interest and royalty payments to related parties in low tax jurisdictions.

F. WITHHOLDING TAX

Austria imposes a withholding tax of 25% (for companies) or 27,5% (for private persons) on dividends, unless double taxation treaties provide otherwise. A withholding tax exemption applies if the recipient is resident company in another EU member state, holds at least 10% of the share capital and has done so continuously for one year prior to the dividend payment. Otherwise, the amount withheld can be credited by the recipient company against its own tax liability. For international participations, the EC Parent-Subsidiary Directive applies.

If the tax authorities suspect cases of tax avoidance or abuse, the withholding tax exemption can only be claimed through a refund procedure. In principle, Austria levies a 25% withholding tax not only on dividends but also on certain interest payments and capital income derived from securities. Corporate investors may achieve a tax exemption if certain conditions are met, even for portfolio dividends. Austria imposes a withholding tax regime also on royalties and income from artists, musicians, actors, sportspersons and the like. The tax rate is usually 20% of the gross receipts. The royalty case, however, is reduced to zero by many of Austria's double taxation treaties.

G. EXCHANGE CONTROL

Most exchange controls have been abolished in recent years. There are hardly any restrictions on the transfer of capital and currency transactions. However, there are reporting requirements for capital outflows from accounts of individuals exceeding an amount of EUR 50,000 (national or international). In addition, all accounts of individuals are kept in a register. The tax authorities may be allowed to get information from this register. Furthermore, even access to the content of accounts is possible under certain circumstances.

H. PERSONAL TAX

Austrian resident individuals are subject to unlimited tax liability on their worldwide income. Non-resident individuals are only required to pay tax on Austrian-sourced income. Taxable income consists of the following seven sources:
(1) Agriculture and forestry;
(2) Independent (professional) services (including scientific, artistic, literary, educational, or other professional services);
(3) Trade or business, including gains on the sale of a business or partnership share;
(4) Employment, e.g. wages and salaries, social security pensions;
(5) Capital assets (dividends, interest and capital gains from financial instruments);
(6) Rentals and royalties;
(7) Annuities and other income of a recurring nature, capital gains from property, speculative gains, and income from certain non-recurring services.

The current average tax rates are as follows:

Taxable Income (EUR)	Rate %
0 - 11,000	0
11,001 - 18,000	0 - 9.72
18,001 - 31,000	9.72 - 20.32
31,001 - 60,000	20.32 - 30.80
60,001 - 90,000	30.80 - 36.53
90,001 – 1,000,000	36.53 – 48.79

Income exceeding EUR 60,000 per annum is taxed at 50%. The tax payable is reduced by certain tax credits, depending on marital status, number of children and other personal circumstances. Special regulations and rates apply for non-residents. Approximately 1/7 of an employee's salary is paid as extra payments, e.g. 13th and 14th salary (which are mandatory pays in most industries) per year is taxed at a fixed rate of 6%. For higher income the reduced rate on extra payments is not applicable anymore or limited. The favourable taxation rates are as follows:

Extra payments p.a. (EUR)	Tax Rate (%)
0 - 620	0.00
621 - 25,000	6.00
25,001 - 50,000	27.00
50,001 - 83,333	35.75

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends (%)	Interest [10] (%)	Royalties (%)
Non-treaty countries:	25 or 27,5	25	20
Treaty countries:			
Albania	5/15[4]	5	5
Algeria	5/15[1]	0/10	10
Armenia	5/15[1]	10/0	5
Australia	15	10	10
Azerbaijan	5/10/15[7]	10	5/10
Bahrain	0	0	0
Barbados	5/15[1]	0	0
Belarus	5/15[4]	0/5	5
Belgium	15	15	0/10[11]
Belize	5/15[4]	0	0
Bosnia & Herzegovina	5/10[4]	5	5
Brazil	15	0/15	15/10/25
Bulgaria	0/5[9]	0/5	5
Canada	5/15[1]	0/10	0/10
China	7/10[4]	0/10	10
Croatia	0/15[1]	5	0
Cuba	5/15[4]	0/10	0/5
Cyprus	10	0	0
Czech Republic	0/10[1]	0	0/5
Denmark	0/15[1]	0	0
Egypt	10	0	0
Estonia	5/15[4]	0/10	5/10
Finland	0/10[1]	0	5
France	0/15[1]	0	0

	Dividends (%)	Interest [10] (%)	Royalties (%)
Georgia	0/5/10[12]	0	0
Germany	5/15[1]	0	0
Greece	5/15[4]	0/8	0/7
Hong Kong	0/10[1]	0	3
Hungary	10	0	0
India	10	0/10	10
Indonesia	10/15[4]	0/10	10
Iran	5/10[4]	0/5	5
Ireland	0/5	0	0/10[11]
Israel	25	15	0/10
Italy	15	0/10	0/10[11]
Japan	10/20[5]	10	10
Kazakhstan	5/15[1]	0/10	10
Korea	5/15[4]	0/10	2/10
Kuwait	0	0	10
Kyrgyzstan	5/15[4]	0/10	10
Latvia	5/10[4]	10	5/10
Liechtenstein	0/15[1]	0	5/10
Lithuania	5/15[4]	0/10	5/10
Luxembourg	5/15[4]	0	0/10[11]
Macedonia	0/15[1]	0	0
Malaysia	5/10[4]	15	10/15
Malta	15	5	0/10
Mexico	5/10[1]	0/10	10
Moldova	5/15[4]	5	5
Mongolia	5/10[1]	10	5/10
Morocco	5/10[4]	0/10	10
Nepal	5/10/15[1,4]	0/10/15	15
Netherlands	5/15[4]	0	0/13[11]
New Zealand	15	10	10
Norway	0/15[9]	0	0
Pakistan	10/15[3]	15	10
Philippines	10/25[1]	10/15	15
Poland	5/15[1]	0/5	5
Portugal	15	10	5/10[11]
Qatar	0	0	5
Romania	0/5[4]	0/3	3

	Dividends (%)	Interest [10] (%)	Royalties (%)
Russia	5/15[8]	0	0
San Marino	0/15[1]	0	0
Saudi Arabia	5	5	10
Serbia	5/15[4]	0/10	0/5/10
Singapore	0/10[1]	0/5	5
Slovakia	10	0	0/5
Slovenia	5/15[4]	5	5
South Africa	5/15[4]	0	0
Spain	10/15[5]	5	5
Sweden	5/10[4]	0	0/10[11]
Switzerland	15/0[3]	0	0
Taiwan	10	0/10	10
Tajikistan	5/10[2]	8	8
Thailand	0/10[4] respectively no treaty limit	0/10/25	15
Tunisia	20/10[4]	10	10/15
Turkey	5/15[4]	0/5/10/15	0/10
Turkmenistan	0	0	0
Ukraine	5/10[1]	2/5	0/5
United Arab Emirates	0	0	0
United Kingdom	5/15[4]	0	0/10[11]
United States	5/15[1]	0	0/10
Uzbekistan	5/15[1]	0/10	5
Venezuela	5/15[2]	4,95/10	5
Vietnam	5/10/15 [4,6]	10	7.5/10

NOTES:
1. Lower rate applies to 10% min. share in subsidiary.
2. Lower rate applies to 15% min. share in subsidiary.
3. Lower rate applies to 20% min. share in subsidiary.
4. Lower rate applies to 25% min. share in subsidiary.
5. Lower rate applies to 50% min. share in subsidiary.
6. Lower rate applies to 70% min. share in subsidiary.
7. Lower rate applies to 25% min. share and share value exceeding USD 250,000, higher rate applies to 25% and USD 100,000
8. Lower rate applies to 10% min. share and share value exceeding USD 100,000
9. Lower rate applies to corporate, higher to individual shareholders
10. Normally, the withholding tax rate on bank deposits etc. is 25%. However, a full exemption is frequently available where the bank receives a written declaration from the recipient that such interest forms part of the recipient's business income (only possible for non-individual persons). The exemption also applies to non-resident individuals for interest received on bonds and bank deposits if they disclose their identity and residence to the depository. Interest on convertible bonds is taxed as dividends.
11. Royalties to these countries are exempt from withholding tax unless more than 50% of the issued

share capital is held. Where more than 50% of the issued share capital is held the rate given is applicable.
12. Lower rate applies to 50% min. share and share value exceeding EUR 2,000,000, higher rate applies to 10% and EUR 10,000.

Please note: The Austria - Argentina double tax agreement was recalled by Argentina in 2009.

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