

Austrian Business Environment

An overview of Austria's legal and tax system



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Located in the heart of Europe – not just geographically, but also in a political and economic sense – Austria is the ideal business location between East and West, especially for headquarters of international companies.



1. Country at a glance

The Federal Republic of Austria is situated in the heart of Europe and surrounded by the Czech Republic, Germany, Hungary, Italy, Liechtenstein, Slovakia, Slovenia, and Switzerland. It has an area of approximately 84,000 square kilometres with a population of approximately 8.4 million citizens.

Austria has nine independent federal states: Burgenland, Carinthia, Lower Austria, Salzburg, Styria, Tyrol, Upper Austria, Vorarlberg, and Vienna. Last mentioned is also the capital and largest city with approximately 1.7 million citizens. The official language is German. Since 1995, Austria is a member of the European Union (EU) and has adopted the Euro as its currency.

2. Starting a business

Depending on the business organization preferred by the investor, there are many legal aspects to consider. A first fundamental question is whether the investment is short-term or long-term-oriented. For long-term investments a foreign investor

can choose between three different legal forms of Austrian business entities:

Limited-liability company (GmbH)

The GmbH is a very flexible form of company, which can be set up by one or more individual founders as well as by legal entities and by Austrian or foreign shareholders.

Since March 1st, 2014 a newly founded GmbH has the option to limit share capital for up to ten years to EUR 10,000 of which at least EUR 5,000 have to be contributed. At the latest by March 1st 2024 share capital must be increased to a minimum of EUR 35,000 of which at least EUR 17,500 have to be contributed.

The GmbH is legally established with its' registration at the Commercial Register.

Joint-stock company (AG)

A joint-stock company can be established by one or more shareholders. The minimum capital stock is EUR 70,000, of which at least EUR 35,000 have to be contributed.

More than 1,000 international enterprises have chosen Austria as the base for their business activities in Central and Eastern Europe.



The structure consists of a supervisory board (Aufsichtsrat) and the executive board (Vorstand).

Partnerships

A partnership can be established by at least two parties agreeing on a certain objective. Partnerships have full legal capacity. A distinction is made between general partnerships (Offene Handelsgesellschaft) and limited partnerships (Kommanditgesellschaft).

A general partnership consists of at least two shareholders, who are personally fully liable for any debts of the company.

A limited partnership consists at least of one general (Komplementär) and one limited partner (Kommanditist). The scope of the limited partner's liability is recorded in the Commercial Register.

Another very common type of enterprise is the partnership limited by shares (GmbH & Co KG), which is a form of hybrid between a partnership and the limited liability company. Ownership and liability are divided between the company's shareholders combining the advantages of higher flexibility of partnerships with the limitation of liability.

Private foundation

A private foundation acts as a legal person managing funds for its beneficiaries. For the establishment the foundation's purpose

needs to be declared and a minimum of EUR 70,000 in the form of cash or property need to be contributed. Advantages of the private foundation are that the beneficiaries are not disclosed to the public.

Non-resident companies or individuals can also operate through branches rather than subsidiaries. The start-up costs are lower since no share capital must be paid up. Branches are taxed on Austrian-sourced income at the corporate income tax rate. In contrary to European Union companies Non-European Union companies have to appoint a local representative.

Employment law and working conditions

Labour law is covered by numerous acts and is among the most complex areas of Austrian legislation. Working terms and conditions are similar to those in the rest of the European Union.

If no other regulations are applicable, a contract of employment is to be applied. The statutory maximum work week is 40 hours. The statutory maximum working day is eight hours, but may be extended up to 10 hours by collective agreement. It is illegal to pay less than the wage set by collective agreement and furthermore 14 salaries per year have to be paid. As these agreements are widespread, there is no general minimum wage.

Visa

Citizens of the European Economic Area do not need a visa and have the right to stay in Austria for up to three months, if they either have a steady job or insurance and sufficient financial means. For longer stays a certificate of registration is necessary. Third country citizens generally need a visa to come to Austria as well as a residence title to stay in Austria.

3. Finance and investment

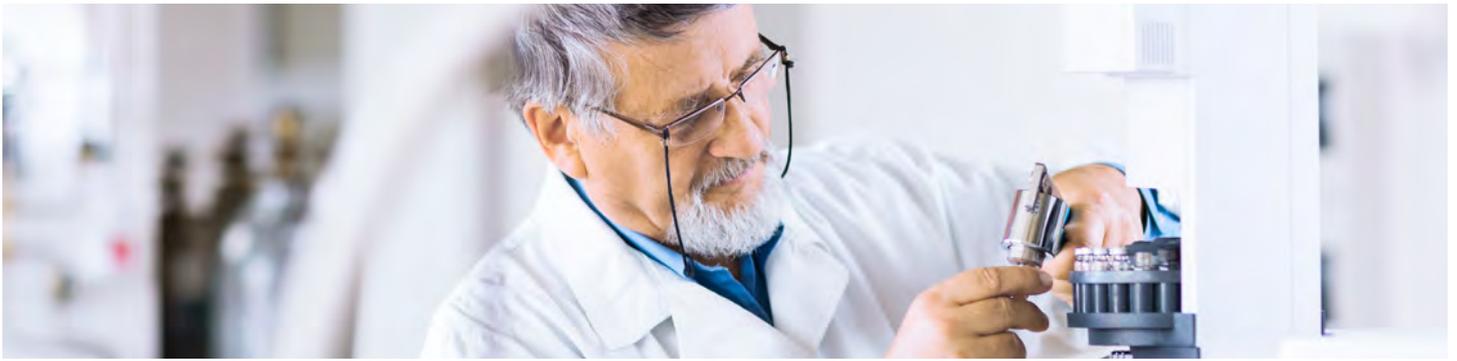
Several business activities demand a business license. If the investor plans plants or premises the district administration is responsible for the issuance of permissions.

Banking & finance

Most of the Austrian Banks are universal banks, which offer a wide range of services. The supervising head of the banking system is the Austrian government together with the Austrian Central Bank.

The banks usually work at a local level with a strong focus on corporate finance. The stock market in Austria is controlled by the Vienna Stock Exchange. It's being supervised by the Ministry of Finance.

For foreign investors it is very positive that Austrian legislation sets a high level of liberalization in cross-border capital transactions. Since Austria is part of the Eurozone it has no exchange controls. Reporting and client



identification requirements apply to significant transactions and for purposes of anti-money laundering laws.

4. The accounting & audit environment

The legal foundation for financial accounting is the Austrian Commercial Code (UGB). The following are obliged to carry out financial accounting regardless of their activities or size:

- Corporate enterprises (limited liability companies and public limited companies);
- Business partnerships with no individual as fully liable partner (e.g. limited partnership with a limited liability company as general partner).

All other enterprises with turnovers in excess of EUR 700,000 must carry out financial accounting (with the exception of farmers and foresters and persons who submit cash income statements).

Partnerships with turnovers lower than EUR 700,000 must carry out cash accounting.

Book-keeping

Companies must keep proper, transparent records of all of their business-related transactions and the status of their assets.

Inventory

Newly founded companies are required to keep exact records of its assets and debts as well as the value of these at the end of each fiscal year.

Annual accounts

Newly founded companies must record its opening balance and produce proper annual accounts at the end of each fiscal year.

Austrian companies that list their own securities on the stock exchange or for whom debt instruments are traded on the stock exchange must produce their consolidated accounts in accordance with IFRS (International Financial Reporting Standards). All other companies can choose between local GAAP and IFRS for their consolidated financial statements.

Annual accounts, consolidated accounts, financial reports or consolidated financial reports must be audited by a public accountant or an accounting firm, if certain thresholds are exceeded.

Annual accounts must be submitted electronically to the regional court and must be entered into the database of the commercial register (with the exception of companies with a turnover of less than EUR 70,000).

5. Overview of Tax System

The main Austrian taxes are (in order of object of taxation):

- Taxes on income: income tax (Einkommensteuer), corporate income tax (Körperschaftsteuer)
- Tax on assets: real estate tax (Grundsteuer)
- Transaction Tax: value added tax (Umsatzsteuer), real estate transfer tax (Grunderwerbsteuer),

foundation entrance tax (Stiftungseingangssteuer), real estate capital gains tax (Immobilienverertragsteuer), capital tax (Gesellschaftsteuer)

- Excise taxes: tobacco tax (Tabaksteuer), petroleum tax (Mineralölsteuer), alcohol tax (Alkoholsteuer)

The highest financial authority in Austria is the Austrian Ministry of Finance. In addition there are 40 tax offices across Austria. Some of them are mandated with specific issues for particular groups of taxpayers.

Taxes on business

The principal taxes applicable to companies in Austria are the corporate income tax, municipal tax, real estate tax, value added tax (VAT), social security contributions, and customs and excise duties.

Corporate income tax (Körperschaftsteuer)

The corporate income tax rate is 25%. Legal entities as capital companies, unincorporated associations or cooperative societies have to pay corporate income tax concerning their taxable earnings. The minimum corporate income tax amounts to 5% of share capital, therefore EUR 500 per year.

VAT (Umsatzsteuer)

The Value Added Tax Code is based on the European Commission Directive 2006/112. VAT that is charged by a business and paid by its customers is known as "output VAT". VAT that is paid by a business to other businesses on the supplies that it receives is known as "input VAT".

Tax exemptions in the fields of research and education contribute to Austria's attractiveness as a business location.

A business is generally able to recover input VAT to the extent that the input VAT is attributable to its taxable outputs. Input VAT is recovered by setting it against the output VAT for which the business is required to account to the tax office, or if there is an excess, by claiming a repayment from the tax office.

Personal taxation

Individuals who are tax resident in Austria are liable to Austrian income tax on their worldwide income.

Individuals who are tax resident outside of Austria are only liable with respect to specific income with its source in Austria.

Residents are subject to income tax derived from the following sources:

- Independent personal services
- Agriculture and forestry
- Trade or business
- Employment
- Investment of capital
- Rentals and royalties
- Other income

Non-residents are subject to income tax in Austria on the following categories of income only derived from Austrian sources:

- Domestic agriculture and forestry

- Trade or business carried out through a permanent establishment in Austria
- Independent personal services performed in Austria
- Employment if the activities are performed in Austria
- Capital profits
- Rentals and royalties
- Capital gains realized upon disposal of Austrian real estate

For residents the first EUR 11,000 of earned income is tax free, for non-residents only the first EUR 2,000. For income exceeding EUR 11,000 up to EUR 25,000 the marginal rate of tax is 36.50%, for income exceeding 25,000 up to 60,000 the marginal tax rate amounts to 43.2143% and any income exceeding 60,000 is taxed with the highest tax rate of 50%.

The first EUR 620 of special payments, such as the 13th and 14th salary is tax free. Above that amount, respective income is taxed at 6% unless the special payments are higher than two months' normal salary. Extra payments exceeding the tax-free allowance of EUR 620 plus a gross amount of EUR 24,380 will be subject to an increased, progressive tax-rate starting from 27% up to 50%, what effectively means an increase in the applicable average income tax rate for top earners by 3% to 6%.

Income in EUR	Marginal Rate of Tax
Up to EUR 11,000	0.0000 %
From EUR 11,000 to EUR 25,000	36.5000 %
From EUR 25,000 to EUR 60,000	43.2143 %
Over EUR 60,000	50.0000 %

Capital gains taxes

Capital gains are usually taxed as ordinary corporate income. There is no taxation of gains on sales of shares in non-resident corporations in which the parent holds a stake of more than 10% for at least one year unless anti-abuse provisions for tax haven companies are triggered.

It is possible to opt out of the international participation exemption, resulting in capital gains becoming taxable.

Capital gains from the sale of securities are taxable for private investors irrespective of the holding period. The applicable tax rate on realised capital gains is 25%. If the securities are held on an Austrian deposit, the 25% tax is withheld by the Austrian depository bank.

In case the securities are held on foreign deposit the realized capital gains have to be included into the individual's personal income tax return. Furthermore, expenses in connection with income from investments, which is subject to the 25% tax rate, are generally not deductible.

Inheritance & gift taxes

In Austria there is no inheritance or gift tax. However gifts in the form of shares or cash exceeding certain boundaries need to be reported to the tax authority. Other taxes may apply (e.g. real estate transfer tax).

Wealth tax

Austria does not levy a net wealth tax.

Due to its low effective tax rate Austria ranks among the most business friendly states within the European Union.

Other taxes

Stamp duty

Stamp duty is levied on a number of transactions (e.g. assignment of receivables, rent and lease contracts).

Real estate tax (*Grundsteuer*)

Immoveable Austrian property, whether developed or not, is subject to real estate tax. The basic federal rate of this annual tax is usually 0.2%, multiplied by a municipal coefficient ranging up to 500%. Thus the effective rate amounts to a maximum of 1% of rateable value of the property.

Real estate transfer tax (*Grunderwerbsteuer*)

All real estate transfers in Austria as well as the consolidation of all shares of a company owning Austrian real estate property in the hand of a single shareholder trigger real estate transfer tax. For real estate transfer tax purposes, it is irrelevant whether a resident or a non-resident for tax purposes in Austria enters into a sale or purchase agreement for domestic real estate property.

The standard tax rate is 3.5%. The rate is reduced to 2%, if real estate is transferred between close relatives or spouses. The taxable base derives from the purchase price or in certain cases from the rateable value. However the rateable value as taxable basis is currently under legislative investigation.

Real estate capital gains tax (*Immobilienvertragssteuer*)

Gains from the sale of real estate property which was acquired after March 31st, 2002 will be taxed at 25% flat rate.

- Real estate property which was acquired before April 1st, 2002 and rededicated from land sites to building sites after Dec. 1987 is taxed at 15% of the sales price.
- Real estate property which was acquired before April 1st, 2002 without rededication or property which was rededicated before January 1st, 1988 is taxed at 3.5% of the sales price.

Tax free exit

Real estate sales are still exempt from taxation if the building was used as principle residence for at least two years since acquisition until the sale or if the building was used as principle residence for five years within the last 10 years. Additional tax exemptions may apply.

Real Estate Business Property

The 25% real estate capital gains taxation is basically also applicable in the case of real estate business property. However certain exceptions exist, especially commercial trading and development of properties will be subject to the progressive income tax rate. Real estate capital gains of corporations will be taxed with 25%.

Customs Code

The Austrian Customs Code is based on the Common Customs Tariff of the European Union. The most important procedure provides for goods cleared for free circulation. Customs are triggered when goods are imported for free movement into Austria and fall due when the customs declaration is submitted to the customs offices.

The Austrian Customs Tariff (Zolltarif) is patterned according to the European Coun-

cil's Common Customs Tariff. The imported goods need to be qualified under the positions of the Nomenclature. Customs depend on the customs value, which is referring to the transaction price (Transaktionswert).

6. Social security contributions

The Austrian social insurance is compulsory and comprises health insurance, pension insurance, unemployment insurance and accident insurance. Social security contributions are determined as percentages of total monthly earnings (up to a maximum amount) and are borne partly by the employee and partly by the employer.

The contribution to the pension fund is the largest of the compulsory social security contributions as employers pay 12.55% and employees 10.25% of the salary. Furthermore employers pay 3.83% and employees 3.82% of salary for the health insurance. Each pays 3% for unemployment and 0.5% for a housing fund.

The employer pays another 0.55% for securing compensation in case of insolvency, as well as 1.53% for a severance payment fund. The employee pays another 0.5% for compulsory membership in the Chamber of Labour. This applies to white collar workers and differs slightly for blue collar workers.

Contribution levels are set on the basis of 14 salaries. The 13th and 14th salary is paid in June/July and November/December. Many companies also offer occupational pension schemes for their employees and pay additional benefits negotiated through collective agreement.



Appendix

Compulsory social security contributions (white-collar workers)

Type of insurance	Up to	Employer	Employee
Health	EUR 4,530.00 p.m.	3.83%	3.82%
Accidents	EUR 4,530.00 p.m.	1.40%	0.00%
Pension	EUR 4,530.00 p.m.	12.55%	10.25%
Unemployment	EUR 4,530.00 p.m.	3.00%	3.00%
Other	EUR 4,530.00 p.m.	(0.5%+0.55%) 1.05%	(0.5%+0.5%) 1.00%
Ordinary Payments		21.83%	18.07%
Ordinary payments, total p.m. (max.)		EUR 988.90	EUR 818.57
Ordinary Payments, total p.a. (max.)		EUR 11,866.79	EUR 9,822.85
Extraordinary payments		21.33%	17.07%
Extraordinary payments p.a. (max.)	EUR 9,060.00 p.a.	EUR 1,932.50	EUR 1,546.54
Total p.a. (max.)		EUR 13,799.29	EUR 11,369.39

Contributions to a voluntary reinstatement (self-) insurance (ASVG)

Type of insurance	Up to	Employee	Total p.m. (max.)
Health	EUR 5,004.60 p. a.	7.55%	EUR 377.85
Pension	EUR 5,285.00 p.m.	22.80%	EUR 1,204.98

Double Tax Treaties with Austria

Countries				
Albania	Cyprus	Italy	Nepal	Spain
Algeria	Czech Republic	Japan	Netherlands	South Africa
Armenia	Denmark	Kazakhstan	New Zealand	Sweden
Azerbaijan	Egypt	Korea	Norway	Switzerland
Australia	Estonia	Kyrgyzstan	Pakistan	Tadzhikistan
Bahrein	Finland	Kuwait	Philippines	Thailand
Barbados	France	Latvia	Poland	Tunesia
Belarus	Georgia	Liechtenstein	Portugal	Turkey
Belgium	Germany	Lithuania	Quatar	Turkmen Republic
Belize	Greece	Luxembourg	Romania	UAE
Bosnia-Herzegovina	Hungary	Macedonia	Russia	Ukraine
Brasil	Hong Kong	Malaysia	San Marino	United Kingdom
Bulgaria	India	Malta	Saudi Arabia	USA
Canada	Indonesia	Mexico	Serbia	Usbekistan
China	Iran	Moldova	Singapore	Venezuela
Croatia	Ireland	Mongolia	Slovakia	Vietnam
Cuba	Israel	Morocco	Slovenia	

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We are familiar with the challenges that companies in the private sector and public organisations face. Complex economic and statutory framework conditions require carefully considered solutions and sound advice. We will accompany you in all business- and tax-related matters – our personal commitment will help you reach the decision that's best for your current situation.

Ongoing professional development means that our team is always up-to-date with the laws and technical developments in Austria. We are also able to draw on the know-how and experience that our worldwide partners possess to find the answers to any international questions you may have.

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