

TAX ASPECTS OF INDUSTRIAL INVESTMENT IN AUSTRIA

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Foreword

Why should a foreign investor make a commitment to Austria? Should he do so because of its favourable geographic location in the middle of Europe, bordering on four Western European and five Eastern European countries? Or should he do so because of the positive business climate, ranked among the best rated in the OECD countries, or because of its thriving business with low rates of inflation and with a socially and politically stable environment? Or should he do so because of Austria's importance as a multicultural state? Foreign investors will in particular decide on setting up in Austria for business reasons and, not least of all, in order to be able to enjoy its unique and diversified culture and lifestyle.

Austria's joining the European Economic Area in 1994 and the European Union in 1995 have together with its longstanding commercial relations with its neighbours to the east additionally stimulated the country's economy. Upon the European Community's eastward expansion into the European Union of the 25, Austria has moved, not only geographically but politically and economically as well, into centre-stage in the new Europe.

This new pulsating core area is one of the most dynamic economic regions in Europe. By contrast with the satiated markets of Western Europe, Eastern Europe possesses enormous market opportunities with up to six per cent economic growth in the next few years.

Economic experts agree that Austria due to its far-reaching commercial integration and, especially, due to its new tax incentives with the central and eastern European accession states is going to profit more than any other EU country from eastward expansion.

This brief brochure should provide an introduction to Austria's tax system and has been updated to take account of recently made changes in Austrian commercial and tax law. But the brief summary only offers an overview and basic information for interested entrepreneurs. The engagement of specialist assistance is therefore recommended before any decisions are made.

All information in this brochure has been carefully collected and basically corresponds to applicable regulations. But it may not be applicable to each specific case. Therefore no warranty is assumed in this regard.

1. Overview

The second part of the major tax reform in Austria entered into force on 1 January 2005. The tax reform resulted in tax reliefs, particularly in the field of the taxation of corporations. The corporate income tax rate was decreased from 34 per cent to 25 per cent, a modern concept of group taxation was established and the ban on the deduction of interest in context with credit-financed participations was abolished.

In the field of the taxation of individuals, in particular individuals with a low income benefited from the tax reform 2005. Employees with an income of less than € 15,770 per year were completely excluded from paying wage tax whereas individuals with an income of more than € 51,000 per year now are treated as big-income-earner and therefore have to pay 50 per cent wage tax on every additionally earned Euro. The tax reform 2005 represents a basic move into the right direction although important issues (reduction of payroll costs, etc.) have been postponed. Eventually Austria seems to be definitely attractive as business location in particular for holdings as well as for research and development activities.

The changes are dealt with in detail in the chapters that follow. Since the overwhelming portion of commercial and industrial investment in Austria is concentrated on Austrian corporations, it is mainly the taxation of such companies that will be described and, subsequently, the main features of incorporation and corporate financing, the VAT system as well as taxation of individuals will be explained. In this first section the most important taxes will be surveyed briefly.

1.1 Taxation of corporate income

Corporate income tax

In Austria companies, in particular corporations (GmbH, AG), are subject to corporate income tax on their entire income. Profits are taxed at the standard tax rate of 25 per cent. For corporations sustaining losses there is an obligation to pay minimum corporate income tax. The latter is currently at a quarterly rate of € 437 for limited liability companies (GmbH) and € 875 for joint stock companies (AG). To support start-ups minimum corporate income tax for both types is reduced to € 273 during the first four quarters of the company's existence. Minimum corporate income tax is credited to taxable earnings in the future.

Subject to taxation is all income that the taxpayer has earned during a business year. Income consists of the total amount of income after deducting business expenses and after considering

investment incentives as well as tax losses carried forward.

Corporate residence

For the purpose of taxation in Austria, a corporation is deemed to be resident and thus taxable in Austria for its worldwide income if it has its seat or effective place of management in Austria. Where a corporation has neither its seat nor its effective place of management in Austria, it is subject to limited tax liability in Austria.

Holding companies

Under certain conditions, Austria grants the international participation exemption for investments in foreign companies held by Austrian holding companies (see item 2.6). Therefore, a minimum participation of ten per cent is necessary. The exemption applies both to dividends as well as to the proceeds of disposal of such investments. The advantages of setting up Austrian holding companies are therefore very much comparable to those of Dutch, Swiss or Luxembourg.

1.2 Taxation of individuals

Income tax

Individuals maintaining residence or habitual abode in Austria are subject to personal income tax. Unlimited tax liability is extended to all domestic and foreign sources of income (worldwide income). Otherwise individuals are subject to limited tax liability for Austrian source income. An individual has his habitual abode in Austria if he is not just staying in the country temporarily. Where the stay in Austria does exceed six months, then in any case unlimited tax liability in Austria is applicable.

Income tax is based on such income as the taxpayer has earned within a calendar year from the seven types of income listed in the Income Tax Act. Sources of income not included in these seven types of income are thus not taxable. Losses may in principle be compensated for both within a specific type of income as well as between the different types of income, however with certain restrictions. In addition, in the context of determining income, personal ability to earn is taken into account by individual deductions and the progressive tax rate currently reaching from nil to 50 per cent.

1.3 Other taxes

VAT

VAT is charged on the sale of most goods as well as on services with the exception of exports. The standard tax rate is 20 per

cent; a limited number of goods and services are taxed at ten per cent. As a rule, input VAT is fully recoverable for companies with the exception of some companies operating in special business fields, e.g. banking, insurance and holding companies.

Capital transfer tax

Capital transfer tax at a rate of one per cent is imposed on initial contribution of capital as well as other contractual or voluntary contributions in cash or kind (and certain hybrid forms of financing) to corporations.

Real estate transfer tax

Real estate transfer tax at the rate of 3.5 per cent (reduced tax rate two per cent) calculated on the basis of the acquisition price is levied on the acquisition and transfer of title of real estate located in Austria. In the case of corporate restructuring under the Restructuring Tax Act and in case of real estate transfers free of charge, the value established for tax purposes (or a multiple thereof) is taken as assessment base.

Stamp duties

Stamp duties (of which there are two kinds) are incurred for certain documentation and legal transactions for which a contract or notarial deed has been signed (e.g. lease contracts, loan agreements, bills of exchange, assignments, etc.).

Excise taxes

Excise taxes are taken out on certain products including petroleum, tobacco products and alcoholic beverages.

2. Taxation of corporations

2.1 General provisions

Corporate income tax is applied to the income of companies, essentially meaning legal entities in private law (and primarily corporations such as GmbH, AG or SE) and equivalent formations. Due to such recognition of corporations as independent tax subjects, a distinction must always be made between tax ramifications at the level of the company and those at the level of the shareholder. This means that at the level of the company profits are taxed at the standard tax rate of 25 per cent while at the level of the shareholder (individuals) the profit distributions basically are taxed with 25 per cent withholding tax. As an alternative to the withholding taxation, individuals as recipients of profit distributions have the possibility to apply for a taxation based on half of their average tax rate (for details see item

2.7). Since the highest possible tax rate is 50 per cent for income tax, application of half of the average tax rate entails ultimately that a corporation's distributed earnings are taxed at a maximum of 43.75 per cent (25 per cent plus 1/2 of 50 per cent).

In the case of a deviating fiscal year 2004/2005, the profit realised by 31 December 2004 will still be subject to the (former) higher corporate income tax rate of 34 per cent. The assignment of the 2004/2005 profit to the applicable corporate income tax rate can be conducted either by equal distribution on a calendar month basis or by preparing an interim balance sheet as of 31 December 2004.

2.2 Scope of tax liability

Corporations are subject to unlimited taxation in Austria for their entire (domestic and foreign) income if they have their seat or place of effective management in Austria. Where a corporation has neither its seat nor its place of effective management in Austria then it is subject to limited tax liability on certain sources of income in Austria.

2.3 Tax rates and tax deductions

The corporate income tax rate basically amounts to 25 per cent and applies to all corporations regardless of whether they retain earnings or distribute them. There is an obligation to pay minimum corporate income tax for every full calendar quarter for which unlimited tax liability obtains and, essentially, at five per cent of one quarter of the minimum statutory amount of nominal or registered capital (i.e. € 1,750 per year for a GmbH and € 3,500 per year for an AG). This amount is raised to € 5,452 for banking institutions and insurance companies. Also the European Corporation (SE) – having a minimum statutory amount of nominal capital of € 120,000 - has the obligation to pay minimum corporate income tax amounting to € 6,000 per year.

With all newly incorporated corporations, as a “young entrepreneur incentive” minimum corporate income tax at only € 273 per quarter (i.e. € 1,092 per year) must be paid. Minimum corporate income tax amounts can be set off against actual corporate income tax liabilities for an unlimited period of time.

Corporate income tax losses incurred by a domestic corporation may be carried forward without limitation (see item 2.11 as well).

In case of a “tax group” (see item 2.4), the minimum corporate

income tax has to be calculated for each group member as well as for the group parent and to be paid by the group parent if the total result of the group does not exceed the “minimum profit”. Minimum corporate income tax accumulated by group members prior to their participation in the tax group can be forwarded to superior group members or to the group parent under certain conditions.

2.4 Group Taxation

Another significant point of the tax reform in addition to the reduction of the corporate income tax rate to 25 per cent is a replacement of the “Organschaft” concept with a new group taxation system.

If two or more companies exercise the option to form a tax group, the taxable results of the domestic “group members” will be attributed to their respective parent company and finally taxed balanced on “group parent” level. Tax losses of group companies can be consolidated with taxable profits of other group companies. As far as the utilization of tax losses accumulated by group members prior to their participation in the tax group is concerned, special conditions have to be taken into account. Profits are only attributed for tax purposes, there is no requirement for a statutory profit/loss takeover agreement. Since financial, economic and organizational integration as well as a profit and loss take-over agreement are not required anymore, the groups may be established considerably easier.

The group consists of a top-tier company (so called “group parent”) and at least one financially affiliated domestic or foreign based subsidiary (so called “group member”).

Beside tax resident corporations and cooperatives, also certain joint-venture structures as well as tax resident EU (or EEA) companies with registered branches in Austria (where the respective investment can be attributed to) may act as group parent.

Moreover, beside tax resident corporations and cooperatives, also “comparable” foreign corporations can act as group member.

The conditions to be met in order to form a tax group between a group parent and group members are:

- a qualifying participation of more than 50 per cent (directly or indirectly) while the qualifying participation must exist during the whole fiscal year during which the group taxation scheme shall apply as well as
- a written application to form a tax group (legally binding for at least three years) – signed by each of the group members

- which has to be filed with the competent tax office and has to contain an agreement on the allocation of tax costs.

A tax group can also include foreign group members. Losses of foreign subsidiaries within a tax group (only the losses generated by the “first tier” of foreign subsidiaries of Austrian group members or parents) can be offset against Austrian profits – the amount of tax losses to be deducted depends on the stake in the particular participation. The foreign tax losses have to be calculated according to Austrian tax law. Profits realized by foreign subsidiaries will not become subject to taxation in Austria. Foreign tax losses previously offset against profits at the level of the Austrian group parent – in order to avoid “double-utilization” of tax losses – have to be subjected to recapture taxation in Austria at the time they are effectively offset or could be offset by the foreign group member in the source state. The recapture taxation has to be effected by increasing the profit of the particular group member to which the foreign tax losses previously have been allocated to. The recapture taxation also has to be applied in case of the withdrawal of a foreign group member (details see below).

In the case of a domestic tax group, the attribution of profits and losses is effected at 100 per cent, even in the case the actual amount of holding is less than 100 per cent. In order neither to advantage nor disadvantage minority shareholders, an appropriate system of tax allocations between the group companies has to be established.

Upon acquisition of a participation in an Austrian company after 31 December 2004 a goodwill has to be deducted as well as a badwill added tax effectively over a period of 15 years, if certain conditions are met (the company has to meet the active business test when it is acquired). The goodwill has to be calculated by deducting the equity and the hidden reserves in non-depreciable assets from the acquisition costs of the respective participation. The goodwill is limited up to 50 per cent of the acquisition costs of the participation.

Current-value depreciations of participations within a tax group are tax neutral, since losses are directly attributed to the group parent. However, also losses incurred in connection with the disposal of group-participations are treated as tax neutral since they are deemed to have the same effect like an (anticipated) depreciation.

If a group member withdraws from the tax group within the commitment-period of three years (the minimum commitment-period of tax groups is three years – each of the years with 12 months), all the tax effects derived from its group participa-

tion have to be reversed. Withdrawals after the commitment period do not affect the allocation of results by the withdrawing group member to its group parent during its group-participation. If foreign group members withdraw from the tax group before all the foreign tax losses – previously allocated by them to the group parent – have been subjected to recapture taxation in Austria, the outstanding difference has to be taxed by increasing the profit of the particular group member or parent to which the foreign tax losses previously have been allocated to. In the case of liquidation or insolvency of the foreign group member (followed by the real and definitive loss of assets) the foreign losses to be subjected to recapture taxation as described above have to be reduced by the previously tax-neutral depreciation on the particular participation if any.

The group taxation scheme enters into force with the assessment 2005, i.e. it already applies to deviating fiscal years ending in 2005.

2.5 Exemption for domestic investments

Dividends received by an Austrian corporation on (but not gains from disposal of) domestic investments are, regardless of the extent of investment and duration of ownership, exempted from corporate income tax. Any withholding taxes (investment extent of less than ten per cent) are credited against corporate income tax.

2.6 International participation exemption

Dividends received from shares in foreign corporations and capital gains from disposals of investments are treated neutral with respect to corporate income tax, if

- the direct or indirect investment amounts to at least ten per cent of the foreign company's capital;
- the Austrian parent company or the foreign corporation is both subject to unlimited taxation and in addition is equivalent to a company taxable under Section 7 § 3 of the Corporate Income Tax Act (dual resident company), and capital shares have been owned uninterrupted for a period of at least one year;
- the foreign (subsidiary) company is comparable to a domestic corporation;
- there is no suspicion of abuse.

A suspicion of abuse is assumed if the foreign subsidiary company is taxed at a low rate (below 15 per cent), does not meet an active-trade-or-business test and does not meet the subject-to-tax condition and largely earns passive income.

Usually interest, royalties (in connection with patents and licensing), capital gains from the disposal of non-exempted participations, etc. have to be considered as passive income. Dividends and other profit distributions have not to be considered as passive income unless they are distributed by companies generating mainly passive income. A managing holding company is not to be considered as a company which generates passive income as specified above.

In case of suspected abuse, the participation exemption for dividends is replaced by a tax credit.

Prerequisites for the international participation exemption

From assessment for calendar year 2004 onwards	
Extent of investment	At least 10%
Period Holding	1 year
Directness required	No
Shareholders	Under § 7 Section 3 Corporate Income Tax Act. Effective management in the national jurisdiction suffices with comparable foreign companies
Corporate rights	All forms of capital shares (e.g. including rights to share in fund assets)

Also permanent establishments of corporations from EU Member States located in Austria can apply the domestic and the international participation exemption.

In principle, capital gains or capital losses (originating from current-value depreciations or appreciations as well as from the disposal of participations) are not taken into account in taxation. The legal treatment as described above will be applied for companies registered as of 1 January 2001 onwards ("new companies") for the first time at the tax assessment 2004 while for companies registered by 31 December 2000 ("old companies") at the tax assessment 2006. However, for new acquisitions the opportunity will be granted of exercising the option of full taxation, when submitting a corporate income tax declaration for the year of acquisition or for the year in which the international participation exemption is applicable the first time. For already existing participations, companies – if they want their future capital gains and losses to be subject to taxation after 2004 or 2006 – they

have to exercise an option for full taxation by the tax assessment for 2004 (new companies) or 2006 (old companies) at latest. However, this option is then irrevocable and extends as well to additional acquisitions of the particular investment. Unless the option for full taxation is exercised, profits and losses in principle are treated tax-neutral. However, if real and definite losses are sustained (e.g. in the case of insolvency or liquidation), they are allowed to be deducted for tax purposes as well.

Due to the investment return exemption, Austria is a very attractive place to incorporate holding companies.

2.7 Dividends

Dividends are basically subject to withholding tax of 25 per cent. If the recipient is an individual, income tax is considered to be paid (final or definitive taxation). However, if dividends will be included in income tax assessment, they are subject to half of the average tax rate. Dividend payments to corporations are exempted from corporate income tax, as already mentioned (see “Exemption for domestic participations”). For foreign shareholders, the 25 per cent withholding tax at source is reduced on the basis of double taxation conventions (see Section 5.2 or 2.17).

In accordance with the Parent-Subsidiary Directive, profit distributions of Austrian subsidiaries to their EU parents (having at least a stake of ten per cent) are either under certain conditions (one year’s uninterrupted ownership) completely exempt from withholding tax or relief may be granted by the application of the refund procedure.

2.8 Taxation of branch offices of foreign corporations

Profit calculation and tax rate

The permanent establishment (e.g. branch office) of a foreign corporation is liable to taxation in Austria for its attributable income. The tax rate is likewise 25 per cent. Here the permanent establishment is to be attributed such profits as it could have earned if it had exercised the same or a similar activity under the same or similar conditions as an independent company (the “dealing at arm’s length” principle). Attribution may be made by either the direct or the indirect method:

- Direct method: Profits are calculated on the basis of the permanent establishment’s financial statements, taking into account all expenses attributable to the permanent establishment, including costs of management and general administra-

tion of the company but excluding deemed profit transfers.

- Indirect method: In exceptional cases, the company’s total profits can be split up among the various permanent establishments according to specific allocation schemes.

For transactions between the permanent establishment and other parts of the company, appropriate arm’s length transfer prices must be applied.

Compensation for losses

A loss deduction for permanent establishments is only possible to a limited extent. Losses incurred in a permanent domestic establishment can only be carried forward if they exceed the company’s remaining positive worldwide income. The loss deduction for taxpayers with limited tax liability therefore only exists subsidiarily, unless sufficient foreign income for loss compensation has been earned. Moreover it has to be taken into consideration, that the taxation of permanent establishments of a company of a contracting state (a state, a double taxation agreement has been concluded with) located in Austria must not be more unfavourable than in respect to Austrian companies provided they do the same business.

2.9 Foreign income of domestic companies

Companies resident in the domestic jurisdiction are subject to taxation in Austria with their worldwide income. Where a double taxation treaty exists, double taxation is avoided by applying the exemption or the credit method (at most up to the amount of the foreign withholding tax). However, if the income is derived from a country Austria has no double taxation treaty with, crediting is effected on the basis of unilateral measures.

In order to avoid double taxation of a resident certain foreign income (business income as well as income from independent personal services which accrue from foreign permanent establishments, etc.) is exempted from taxation as far as Austria has not concluded a double taxation convention defining rules for the specific case. A precondition therefore is that the foreign income is subject to a taxation comparable with the Austrian corporate income tax with a tax rate above 15 per cent on average. Nevertheless profits, which are exempted from taxation, increase the tax base (proviso safeguarding progression).

Dividends from foreign subsidiaries are subject to the standard tax rate unless they are exempted from taxation according to the international participation exemption (see item 2.5) or a double taxation convention.

To the extent to which dividends consist of prior shareholders' contributions, that portion of the dividend is not subject to a withholding tax at source. There are only special provisions in regard to taxation of retained earning income of foreign subsidiaries in the case of foreign investment funds.

2.10 Losses incurred in foreign permanent establishments

Losses incurred in a foreign permanent establishment of Austrian companies can be offset against their domestic positive income within the same financial year. This concept can also be applied if the respective double taxation agreement stipulates the exemption method. To prevent the company from deducting losses several times, losses already deducted are subject to recapture taxation in Austria as soon as the company has the possibility to deduct the respective losses in the country of origin.

2.11 Stock dividends

The conversion of retained earnings of the company into capital does not entail any taxable income for the owner. However, capital reductions are treated as taxable income if the capital increase cited above was accomplished with the company's own funds within the last ten years prior to the capital reduction. Otherwise, they are exempted from taxation.

2.12 Deductible operating expenses

Depreciation and depletion

For tax purposes, only the straight-line depreciation method is allowed. Accordingly, costs are distributed evenly over the asset's useful life. For certain types of assets depreciation rates are stipulated as follows by the Tax Code:

Buildings (for industrial and farming&forestry purposes)	3.0%
Buildings (banks, insurance companies and similar services)	2.5%
Other buildings	2.0%
Motor vehicles	12.5%

Goodwill from the acquisition of a company must be depreciated over 15 years. Goodwill resulting from a merger of companies cannot be depreciated.

Tax depreciation need not be the same as commercial law depreciation. Where assets already depreciated are disposed of, the

difference between their book value and the proceeds of sale are taxed as profits or losses in the year when the disposal occurs.

In the year of purchase, immediate full depreciation can be taken out on assets which purchase costs did not exceed € 400.

Tax loss carry forwards

Tax losses may be carried forward for an unlimited period of time and set off against earnings from later years. With the tax reforms of 2000 a general restriction on the deductibility of losses from loss investment models was introduced. Losses from such investment models may neither be set off nor carried forward. They may only be set off against later profits derived from the same investment.

The Tax Reform Act of 2001 created an additional restriction on the deductibility of operating losses. As of 1 January 2001 deductible losses may only be set off in the amount of 75 per cent of the total amount of the annual taxable income. The remaining losses however are not lost but are available in future business years as a deduction (again, within the 75 per cent limit).

Accruals

Since 1 January 2001 certain accruals (provisions for liabilities and impending losses) running for more than twelve months as of the closing date of the accounts are only accepted for tax purposes at 80 per cent of their value. Exempted from this reduction are provisions for personnel benefits (severance payments, pensions, vacations and anniversary awards) for which specific reduction and computation methods have been provided. In general, lump-sum accruals and accruals for deferred repairs and maintenance are not allowed for tax purposes.

Interests for the acquisition of participations

In the past, interest for the acquisitions of participations was generally not deductible. From 2005 onwards interest on loans taken out to acquire domestic or foreign participations will generally be tax deductible as long as the arm's length principle is considered. Interest will be deductible regardless of whether the involved companies are part of a tax group or not.

Payments to affiliated foreign companies

There are basically no restrictions in regard to the deductibility of royalties (licences), interest payments and payments for services to affiliated foreign companies provided that they meet arm's length standards. Payments to affiliated companies not meeting arm's length standards are treated as a hidden distribution of earnings, i.e. they are not deductible and withholding tax is usually triggered at source.

With domestic law implementation of a new EU interest-directive, withholding taxes on cross-border payments of interest and licence fees (regardless of whether taken out by deduction or by assessment) between affiliated companies in the Member States has been abolished. As to amounts, exemption from withholding tax is limited to the extent of arm's length payments. Companies qualify as affiliated companies if a direct investment of at least 25 per cent exists or if the companies have the same parent company, which one directly owns at least 25 per cent of each of them. The recipient of the interest payments or of the license fees also has to be the beneficial owner. Permanent establishments of affiliated companies – acting as beneficial owner or as debtor of the payments – are also comprised by the exemption from withholding tax. The investment must be owned for a longer period than twelve months in order to be able to benefit from the exemption as described above.

There are basically no regulations stipulating the minimum equity required by a company (“thin capitalisation rules”). Nonetheless, the fiscal authorities may under special circumstances rule that an owner loan is an equity replacement. Furthermore, the Austrian commercial law basically requires a minimum equity ratio of eight per cent. If the equity ratio of the company falls below eight per cent and its earning power (virtual period for debt redemption) at the same time does not meet certain requirements, the management has to deal with consequences as far as its responsibility is concerned.

Taxes

Taxes on income and other personally related taxes as well as VAT, where they do not relate to deductible expenses, may not be deducted. Other taxes such as, for instance capital transfer tax, may be claimed as operating expenses.

Other essential points

Expenditures in connection with the conduct of one's personal life are basically not deductible. Deductibility of the costs of a business meal is generally reduced to 50 per cent of the expenses actually incurred if considered advertising expenses.

2.13 Transfer pricing

Austria has implemented the TP-guidelines set forth in the OECD model convention. According to these guidelines, all legal transactions between affiliated companies must be carried out according to the arm's length principle. Where a legal transaction is deemed not to correspond to that arm's length principle, the transaction price is adjusted for corporate income tax purposes. Such an adjustment constitutes either a construc-

tive dividend or a capital contribution. There is the option of obtaining in advance a non-binding ruling of advice (EAS) from the tax authorities.

2.14 Tax incentives

Research incentives

Research and development expenses are fully deductible at the time when incurred. There is an option to deduct 25 per cent of these expenses (without administration- and distribution costs as well as expenses of fixed assets) in the form of a so called “re-search allowance” in addition to de facto research expenses. The economic value of the research program (in process or already completed) has to be proved. An extended allowance of 35 per cent is possible up to the extent to which the research expenses of the companies are beyond the average of the last three years or when a company makes research investments for the first time.

Moreover there is an additional option of taking advantage of a so-called research allowance II (“Frascati-allowance”) in the amount of 25 per cent of expenses for research and experimental development activities “systematically carried out by the company itself using scientific methods” - the economic value of the research program has not to be proved. The allowance II also takes administration- and distribution costs as well as expenses of fixed assets into consideration. This allowance may not be claimed for those expenditures that already have been included in the basis for research allowance I.

As an alternative to research allowance II a research premium in the amount of eight per cent may be availed of. The research premium is credited directly to the tax account and therefore is advantageous when losses have to be sustained.

Furthermore, since 1 January 2005, it's possible to take advantage of a research allowance in the amount of 25 per cent (or as an alternative of a premium of eight per cent) of the expenses for research and experimental development activities assigned to particular institutions (e.g. to universities, the Austrian Academy of Sciences, etc.). This is important in particular for mid-sized and small-sized companies in order to enable them to benefit from the research allowance (or premium) without having to carry out expensive research activities by themselves.

Other tax incentives

An education allowance is granted in the amount of 20 per cent of training expenses paid to specific external institutions. The training expenses subject to this education allowance have to accrue in context with training measures (for employees), which are in the companies interest.

Moreover, an education allowance is granted to cover internal education and training measures if the latter are taken by internal research and education institutions comparable to a separate division that does not offer its educational programme to third parties (apart group members). The education allowance may only be claimed if the expenses per education or training measure do not exceed € 2,000 per calendar day.

Alternatively, an education premium to the extent of six per cent of education expenses can be claimed for. The premium is credited to the taxpayer on its tax account.

The apprentice training premium is applicable for apprenticeship employment in existence on 1 January 2002 or at a later point in time. It amounts to € 1,000 and provides entitlement for every year in which the apprenticeship is maintained.

Investments in human capital

Designation	Amount	Prerequisites	In force / time limit
Education allowance	20% of direct education expenses § 4 Section 4 No 8 Income Tax Act	For computation of the education allowance expenses of certain external training and ongoing training institutions can be taken into account.	Expenses as of calendar year 2002
	20% of direct education expenses § 4 Section 4 No 10 Income Tax Act	Expenses for internal training and ongoing training institutions can be used as an evaluation basis. For the internal training, the allowance is limited to € 2,000 per calendar day in an internal division.	As of 2003 assessment
Education premium § 108 c Income Tax Act	6% of external direct training and ongoing training expenses	For expenses invoiced to the employer by external training and ongoing training institutions and not constituting the basis of an education allowance, an education premium can be applied for.	As of calendar year 2002
Apprentice training premium § 108 f Income Tax Act	€ 1,000 per every apprenticeship maintained	The premium is available in every year in which an apprenticeship is maintained.	As of 2002 assessment for apprenticeships obtaining as of 1 January 2002

Investment in research and development

Designation	Amount	Prerequisites	In force / time limit
Research allowance § 4 Section 4 No 4 Income Tax Act ("Frascati allowance")	25% of (own) research expenses	Expenses can be included for research and experimental development carried out systematically and by using scientific methods. There is no evidence required. Excepted are expenses that were the basis of the research allowance I .	As of assessment 2004
Research allowance § 4 Section 4 No 4a Income Tax Act	Basically 25% of research expenses; in addition 35% for above-average research	Affected are expenses serving the development or enhancement of inventions of value to the national economy. The economic value must be proved by attestation or by a patent.	As of assessment 2004
Research allowance § 4 Section 4 No 4b Income Tax Act	25% of research expenses (assigned research)	Granted in connection with research and experimental development activities assigned to particular institutions and carried out systematically and by using scientific methods (no evidence required).	As of assessment 2005
Research premium § 108c Section 2 No 1 Income Tax Act	8% of research expenses	Evaluation basis for research premium are expenses within the meaning of the research allowance pursuant to § 4 Section 4 No 4 or § 4 Section 4 No 4b Income Tax Act. Expenses already considered as the basis for one of the research allowances above are barred. An application has to be filed.	As of assessment 2004

2.15 Restructuring measures

The Restructuring Tax Act allows to change the legal form of a company with almost any form of incorporation largely without any tax impact. This is achieved in the field of taxes on income by waiving the taxation of hidden reserves of assets to be re-incorporated (continuation at book value). Existing loss carry-forwards can be transferred under certain conditions. The act covers corporate mergers, special conversions, contributions, demergers, consolidations and spin-offs. In accordance with the EU Merger Directive cross-border restructuring also includes EU companies of other Member States. As a result, it is possible to modify a company's form of incorporation at any time without an impact on taxes. With 8 October 2005 the Austrian act governing the formation of "European Corporations" (*Societas Europaea*, SE) entered into force. This act forms the legal basis for outbound cross-border mergers (so-called "export merger") as well as for inbound cross-border mergers (so-called "import merger"). Such restructuring measures now are covered and facilitated by the Restructuring Tax Act.

2.16 Taxation of private foundations

A private foundation is a legal entity of private law to which the founder has dedicated assets to achieve the purpose of the

foundation. The foundation purpose need not be charitable but can, for instance, be the support of members of a family or of descendants (so-called "family foundations"). Payments by such foundations to beneficiaries and ultimate beneficiaries (individuals) are subject to a withholding tax of 25 per cent (as with dividends). Until their distributions, certain types of income (e.g. certain capital earnings and investment earnings) are subject to so-called "interim taxation" in the amount of 12.5 per cent. This reduced 12.5 per cent tax is subsequently credited to withholding tax incurred by payments made to beneficiaries. All in all there is no increase in taxes (which means that an average tax rate of 25 per cent is applied) but the partial taxation of the capital income cited above is brought forward in time. Payments by the foundation to corporations do not fall under the remit of the participation exemption but are taxable in the usual manner.

Payments (inter vivos and upon death) by the founder to his private foundation have since 1 January 2001 been subject, regardless of the amount of the resources paid, to the fixed donation tax rate of five per cent. In the case of allocation of real estate property this rate is raised by two per cent of the value of the real estate.

2.17 Withholding taxes under double tax treaties

Recipient	Dividends ^(1, 2) %	Interest ⁽³⁾ %	Royalties, licenses in ⁽⁴⁾ %
Resident corporations	Nil/25 ⁽⁵⁾	Nil/25	Nil
Resident individuals	25 ⁽⁶⁾	Nil/25	Nil
Nonresident individuals:			
Non-treaty			
Nonresident corporations and business enterprises	25	Nil	20
Individuals	25	Nil	20
Treaty			
Argentina ⁽⁷⁾	15	0	15
Armenia	15/5*	0	5
Azerbaijan	15/10*15* ⁽⁸⁾	0	10/5 ⁽⁹⁾
Australia	15	0	10
Belarus (White Russia)	15/5*	0	5
Belgium	15	0	10x
Belize	15/5*	0	0
Brazil	15	0	25/15/10 ⁽¹⁰⁾
Bulgaria	0	0	0
Canada	15/5+	0	10
China	10/7*	0	10/6 ⁽¹¹⁾
Croatia	15/0+	0	0
Cyprus	10	0	0
Czech Republic	10	0	5
Cuba ⁽¹⁸⁾	15/5*	0	5/0 ⁽¹⁹⁾
Denmark	10	0	10x
Egypt	10	0	0/films 20
Estonia	15/5*	0	10/5 ⁽¹²⁾
Finland	10/0+	0	5
France	15/0+	0	0
Georgia ⁽¹³⁾	10 / 5+	0	0
Germany	15/5+	0	0
Greece ⁽¹⁴⁾	25 ⁽¹⁴⁾	0	10x
Hungary	10	0	0
India	10	0	10
Indonesia	15/10*	0	10
Iran ⁽¹⁵⁾	10/5*	0	5
Ireland	10/0*	0	10x
Israel	25	0	10
Italy	15	0	10x
Japan	20/10**	0	10
Kazakhstan ⁽¹⁶⁾	15 / 5+	0	10
Kyrgyzstan	15/5*	0	10
Korea	15/5*	0	10/2 ⁽¹⁷⁾
Kuwait	0	0	10
Liechtenstein	15	0	10/5 ⁽²⁰⁾
Luxemburg	15/5*	0	10x
Malaysia	10/5*	0	10/15 films
Malta	15	0	10
Mexico ⁽²²⁾	10/5+	0	10
Moldova ⁽²³⁾	15/5*	0	5
Mongolia	10/5+	0	5/10 ⁽²⁴⁾
Morocco ⁽²¹⁾	10/5*	0	10
Netherlands	15/5*	0	10x

Recipient	Dividends ^(1, 2) %	Interest ⁽³⁾ %	Royalties, licenses in ⁽⁴⁾ %
Nepal	15/10+/5*	0	0
Norway	15/5*	0	0
Pakistan	20/10 ⁽²⁵⁾	0	20
Philippines	25/10+	0	15/10 ⁽²⁶⁾
Poland ⁽²⁷⁾	15/5+	0	5
Portugal	15	0	5/10x
Romania ⁽²⁸⁾	5/0*	0	3
Russia	15/5 * ⁽²⁹⁾	0	0
Russian Federation ⁽³²⁾	0	0	0
San Marino ⁽³⁰⁾	15/0+	0	0
Singapore	10/0+	0	5
Slovakia	10	0	5
Slovenia	15/5*	0	10
South Africa	15/5*	0	0
Spain	15/10**	0	5
Sweden	10/5*	0	10x
Switzerland	15/0+ ⁽³¹⁾	0	5
Thailand	25/10*	0	15
Tunesia	20/10*	0	10/15 films
Turkey	25	0	10
Ukraine	10/5+	0	5
UK	15/5*	0	10x
United Arab Emirates	0	0	0
USA	15/5+	0	0/10 films
Uzbekistan	15/5+	0	5

Notes:

¹⁾ Dividends – Dividend distributions attributable to a prior release of paid-in surplus or other shareholder contributions (classified as capital reserves) are deemed to be a repayment of capital, i.e. no withholding tax is incurred. At the shareholder's level, dividends received and those classified as contribution refund will reduce the tax basis assessment for investments. To the extent to which the tax basis would become negative, such dividends are treated as taxable income (unless taxation is eliminated by a tax treaty). Further, according to the Parent/Subsidiary Directive, an exemption from withholding tax is granted for the distribution of profits by an Austrian corporation to an EU parent company if the parent holds a participation of at least 10% subject to the condition of reciprocity during an uninterrupted period of at least one year.

²⁾ Under certain treaties the amount of the withholding tax is dependent on the extent of the proportion of issued share capital held by the recipient. Where this is the case, all rates are given. Those marked with + refer to an investment of 10%, those marked with * refer to an investment of 25% and those marked with ** refer to an investment of 50%.

³⁾ Interest – Interest on cash deposits in Euro or foreign currency in bank accounts and fixed interest bearing securities in foreign currency (issued after 31 December 1988) and on fixed interest bearing securities denominated in Austrian Schillings or Euro (issued after 31 December 1983) are subject to a 25% withholding tax. If the recipient is an individual, this withholding tax is final (no further income taxation and inheritance taxation). Companies receiving interest payments may obtain an exemption from withholding tax if they provide the bank or other custodial agent with a written confirmation from the recipient that such interest payments constitute a part of the recipient's operating revenues (exemption statement). Interest payments to nonresidents without a permanent establishment in Austria are generally not subject to withholding taxation. At interest payments between affiliated companies the regulations stipulated by the EU interest directive have to be taken into consideration (see item 2.12).

⁴⁾ Royalties, etc. – In case of payments to countries marked with "x," the rate

is nil unless more than 50% of the issued share capital of the company paying the royalties is held by the recipient, in which case the rate given applies. For Portugal, the rate of withholding tax is 5%, but 10% if more than 50% of the issued share capital is owned by the recipient. At royalty payments between affiliated companies the regulations stipulated by the EU interest directive have to be taken into consideration (see item 2.12).

⁵⁾ If the recipient holds a participation of less than 25% in the distributing company, the dividends are subject to a 25% withholding tax. Since dividends distributed by an Austrian corporation to another Austrian corporation are generally not subject to taxation (see "Determination of income"), the withholding tax is credited against corporation income tax upon assessment of the recipient corporation for the respective tax year.

⁶⁾ Withholding tax on dividends from Austrian companies is final, i.e. no further income tax is collected from the recipient (provided an individual).

⁷⁾ Dividends may only be taxed in the source state and are tax exempt in the recipient's state.

⁸⁾ 5% for shares of at least 25% and worth at a minimum of USD 250,000, 10% for shares of at least 25% and worth at least USD 100,000, 15% for shares below 25% investment.

⁹⁾ 5% for industrial licenses and know-how not more than three years old.

¹⁰⁾ 10% for copyright license fees in connection with literature, science and art. 25% for trademarks license fees.

¹¹⁾ Industrial, commercial or scientific equipment – 6%.

¹²⁾ 5% for leasing of mobile goods and 10% for other licences.

¹³⁾ The new treaty was signed on 11 April 2005 and will presumably enter into force at the beginning of the fiscal year 2006.

¹⁴⁾ The treaty does not restrict the taxation right of the source country. Thus consequently a 25% withholding tax is applied under domestic law.

¹⁵⁾ The new treaty was signed on 11 March 2002 and will enter into force at the beginning of the fiscal year 2005.

¹⁶⁾ The new treaty was signed on 10 September 2004 and will presumably enter into force at the beginning of the fiscal year 2006.

¹⁷⁾ 2% for license income from industrial, commercial or scientific use.

- ¹⁸⁾ The treaty was signed on 26 June 2003 and will presumably enter into force at the beginning of the fiscal year 2005.
- ¹⁹⁾ Copyright license fees in connection with literature and art are not subject to withholding tax if they are taxed in the country of residence.
- ²⁰⁾ 5% in case of direct (or indirect over a patent-realization-company) payments of royalties by companies of the other member state (with an industrial establishment in the other member state).
- ²¹⁾ The new treaty was signed on 27 February 2002 and will presumably enter into force at the beginning of the fiscal year 2005.
- ²²⁾ The treaty was signed on 13 April 2004 and will presumably enter into force at the beginning of the fiscal year 2006.
- ²³⁾ The treaty was signed on 29 April 2004 and will enter into force at the beginning of the fiscal year 2006 (till then, the DTA with the Russian Federation has to be applied).
- ²⁴⁾ The use or the right of use of copyrights to artistic, scientific or literary as well as cinematographic works.
- ²⁵⁾ 10% for dividends distributed by industrial companies, 20% for other dividend distributions.
- ²⁶⁾ 10% in cases where royalties are paid to an Austrian resident company (as the beneficiary) by a Philippine resident company registered as “pioneering company” under the Philippine tax-incentive-regulations.
- ²⁷⁾ The new treaty was signed on 13 January 2004 and will enter into force at the beginning of the fiscal year 2006.
- ²⁸⁾ The treaty was signed on 24 November 2004 and will presumably enter into force at the beginning of the fiscal year 2006.
- ²⁹⁾ The new treaty was signed on 30 March 2005 and will enter into force at the beginning of the fiscal year 2006.
- ³⁰⁾ 5% if capital share amounts to at least 10% worth at least USD 100,000.
- ³¹⁾ For dividend distributions retroactive as of 1 January 2000.
- ³²⁾ The treaty applies to Georgian Republic and, Moldova (till end of 2005), Tajikistan and Turkmenistan. With Russia a new treaty has been ratified. Under this treaty a withholding tax up to 5% (in case of capital share of at least USD 100,000) and up to 15% in all other cases is levied.

2.18 Tax administration

In Austria the fiscal year is equivalent to the calendar year. Companies can apply for deviating fiscal year; in such case the basis for the calendar year’s tax assessment is the different fiscal year ending during that calendar year. Assessment occurs by means of a decision announced by the tax office after filing the tax return.

Payment of taxes

Corporate income tax is paid in quarterly advance payments during the year and a final payment is made when the assessment decision is available. The quarterly advance payments usually are calculated on the basis of the most recently assessed corporate income tax year.

As of 1 October 2001 the difference between income tax or corporate income tax as per the final assessment and prepayments is interest bearing, from 1 October of the year subsequent to the year when the tax claim arose up to the date when the assessment is released.

Sample of a corporate income tax calculation

Calculation for the business year ending of 31 December 2005
Premises

Below you will find a sample calculation of corporate income tax for a GmbH (limited liability company) based on the following premises:

1. The GmbH’s income is estimated at € 100,000 after deducting all expenditures and taxes, excluding corporate income tax.
2. Research expenses amount to € 10,000; an allowance of € 2,500 can be claimed in addition to deducting the research expenses.
3. Losses carried forward from 1991 onwards are € 80,000.

Tax computation	€	€
Net income before taxes		100,000
minus:		
Research allowance	-2,500	-2,500
plus:		
Compensation for members of the Supervisory Board (50% of € 8,000)	4,000	
Donations and advances	2,400	
Setting aside of general provisions	<u>4,000</u>	<u>10,400</u>
Taxable income before losses are carried forward		107,900
thereof 75%		<u>80,925</u>
Losses creditable		-80,000
Taxable income		27,900
thereof 25% corporate income tax		9,486

2.19 Electronic filing of annual corporate income tax returns

As of the financial year 2003, the annual corporate income tax return has to be filed by electronic means. Just in the case the company cannot reasonably be expected to file tax returns electronically due to the lack of technical prerequisites and of a tax representative in Austria, filing of the tax return may be done with pre-printed forms.

3. Incorporation and financing of a company

3.1 Incorporation

The most important types of companies in Austria are the limited liability corporation (GmbH), and the joint stock corporation (AG). Foreign investors generally choose the GmbH since it provides a higher degree of corporate law control and allows for lower equity provision. We will therefore largely concentrate on the GmbH here below.

As a legal entity the GmbH exists upon registration with the Companies' Register. The application for registration must contain the notarised signatures of all managing directors. The articles of association must be drawn up in the form of a notarial deed (written document executed by a public notary) and must as minimum requirements include the name of the company as well as its seat, the business purpose, the amount of registered capital and the capital contribution of each of the various owners.

Since 8 October 2005 a new company type, the SE-Societas Europea ("European stock corporation") can be chosen in Austria. The SE is a stock corporation based on community law, which means that its legal form is accepted throughout the EU. The advantages of this legal form are the simplification of organizational structures (in particular for international groups), the possibility of cross-border-transfers of corporation seats without loss of the legal identity as well as the possibility of making cross-border-mergers. The SE allows the choice of a business location under an economic point of view as well as the choice of the most favourable legislation. The minimum share capital required for the incorporation of a SE is € 120,000 while the statutory seat of the corporation must be located in the same country where the place of management is located in.

3.2 Startup Subsidisation Act

Under certain conditions corporate start-ups as well as already existing companies involved in the transfer of small-sized and medium-sized companies do not have to pay stamp duties and federal administration fees, various payroll fees, real estate transfer tax for the contribution of real estate, court fees for registration with the Companies' Register as well as capital transfer tax for acquisition of corporate rights are not charged. Moreover, certain benefits are granted to start-ups in connection with the payment of health-insurance-fees.

3.3 Nominal capital / premium

A GmbH's minimum registered capital amount is € 35,000. Generally, one-half of the registered capital must be raised in cash while the remainder may be contributed in the form of assets (contributions in kind). Of the original capital contributions to be paid in cash one-fourth, however at least € 17,500 must actually be paid upon incorporation. Under certain conditions, the capital can be provided exclusively in the form of assets (incorporation in kind). The articles of association may provide for additional capital contributions payable by the owners on the basis of a resolution adopted by the shareholder meeting. The minimum share capital of an AG is € 70,000. For an AG, the same payment regulations apply as for a GmbH. But the owners can agree upon a further capital contribution going beyond the nominal value of the shares (premium). The premium is shown on the company's balance sheet as a capital reserve.

3.4 Incorporation costs

The amounts made available to the company (including the premium) are subject to capital transfer tax at the rate of one per cent. In addition to the capital transfer tax, a registration fee between € 400 and € 750 must be paid upon incorporation. Start-ups may under certain conditions be exempt from capital transfer tax and registration fee (see 3.2). Total incorporation costs (including taxes, attorney's and notary's fees) normally come to € 3,500 for a GmbH and to € 5,000 for an AG. Incorporation costs may be borne by the company in the amount indicated in the articles of association.

3.5 Shareholder contributions and shareholder loans

Capital contributions and loans by shareholders may be used as instruments to finance the company. Neither contributions nor loans need a specific form. Such contributions have no impact on the tax burden, as they do not raise the company's taxable income. They are subject to a capital transfer tax at the rate of one per cent.

A fee in the amount of 0.8 per cent of the loan is taken out on shareholder loans if a written loan agreement is concluded. In accordance with established case law in Austria, under certain conditions an owner loan is ranked below other liabilities (e.g. if the company during the period when the loan was granted was unable to raise the necessary finances in the market).

3.6 Bank loans

A company is in most cases financed by taking out a bank loan. As collateral on such loans the owners may provide guarantee statements that are not subject to any tax or fee. Bank credits or loans are likewise subject when being finalised in writing to the credit (loan) fee in the amount of 0.8 per cent of the line of credit for a duration of five years, for longer durations 1.5 per cent.

4. Austria's VAT system

4.1 General information

VAT (Umsatzsteuer or Mehrwertsteuer) was introduced in Austria by the Value-Added Tax Act of 1972, which took effect on 1 January 1973. This was substantially modified when Austria entered the European Union. EU VAT directives were implemented by the Value-Added Tax Act of 1994 that entered into force on 1 January 1995.

VAT is a tax on expenditures of end-consumers. VAT credited to undertakings does not constitute a cost. This is achieved by deduction of prepaid VAT. However the prepaid VAT is only allowed to be deducted if the goods or services purchased are deemed to be used for business purposes (at least ten per cent). Undertakings that sell goods or render services in Austria are obliged, regardless of their location, to invoice VAT. This obligation only lapses if tax exemptions or the reverse-charge procedure are used.

Resident and non-resident undertakings are as a rule entitled to claim input VAT paid by deducting them from their monthly or annual VAT debt assessment. Where the prepaid VAT amounts exceed the VAT payable, the difference is either refunded by the fiscal authorities or credited against other tax liabilities. Undertakings lacking both a seat or a permanent establishment in Austria or not providing any taxable supplies or services in Austria can have VAT refunded. The relevant application must be filed with the competent tax authority within the first six months of the following year.

4.2 Sales within the European Union

As a result of Austria's joining the European Union deliveries of goods between Member States are no longer subject to the im-

port/export concept. Goods supplied within Member States are no longer subject to customs checks or import VAT.

In general, purchases by an Austrian undertaking from a supplier resident in another Member State are subject to acquisition (or transfer) tax. This VAT on inter-community purchases must be calculated by the Austrian buyer on the basis of the purchase price and must be indicated in the monthly or annual VAT return. As a rule, this amount is deductible as prepaid VAT. Deliveries by Austrian suppliers to undertakings subject to tax in another Member State are treated in Austria as tax-exempt deliveries within the EU provided that the inter-community purchase is subject to VAT in the country of destination. Moreover, the Austrian supplier has to prove in a comprehensible way to the tax authority that he himself or the recipient of the goods has transported or dispatched the goods to another EU-country (by providing adequate documents like invoices, written receipts issued by the customer or his contractor, shipping documents, etc.). Furthermore, the supplier has to meet additional book-keeping requirements as far as tax-exempt inter-community supplies are concerned.

This system is only applicable if both the buyer and the seller are undertakings within the meaning of the Value-Added Tax Act, have a VAT identification number (UID), supply or acquire the goods in the course of their routine business operations and if the UID is provided on the invoice. For deliveries to private persons or undertakings not possessing a VAT identification number, the deliveries are normally subject to VAT in the country of origin. This provision also applies to mail order deliveries if the annual delivery threshold of the EU destination country in question is not exceeded and if the supplier does not opt for taxation in the country of destination. In Austria the sales limit (delivery threshold) is € 100,000 in regard to deliveries made to Austria.

4.3 Taxable sales and services

Taxable transactions are defined as follows:

1. The supply of goods and/or the services rendered for consideration by an undertaking in Austria in the course of its business. The tax is not limited to sales connected with the nature and objective of the undertaking.
2. In-house usage (private use or withdrawal of corporate assets or services).
3. Imports of goods from non-EU countries to Austria (import VAT). This tax is taken out on goods and raw materials imported into Austria at the same rate as applies to domestic products but is deductible in connection with the monthly

or annual VAT assessment if paid by an undertaking. Import VAT is collected by customs authorities.

4. Intra-community acquisitions of goods.

For imports incurring import VAT, collection of import VAT has been transferred from the customs authorities to the revenue offices where the party owing the import VAT is registered for VAT purposes within the national jurisdiction, has imported the item for its undertaking and applies for the same, clearing the shipment through customs.

Delivery of the goods is deemed to have taken place in Austria if control of the goods is transferred in Austria. In general, the venue of delivery is Austria if delivery commences in Austria.

Special regulations apply to assembly projects and imports from non-EU countries under the control of the supplier and to post order deliveries to Austria.

Basically the venue of other services is determined by the place where the undertaking performing the service has its seat or permanent establishment. However there are also various different special regulations so that the principle has actually become the exception:

1. Services in connection with real estate property and buildings: the place where the real estate is located.
2. Services of carriage: the place where carriage is actually effected.
3. Repairs, transport auxiliary services and services in the fields of art, sports, science, education, etc: the place where the service is actually performed.
4. Certain services performed by non-EU undertakings: the place where the service is actually used and provides a benefit.

The following services are deemed to be performed where the recipient operates his undertaking or permanent establishment, if performed for an EU undertaking or a recipient resident outside of the EU.

1. Transfer of patents and copyrights as well as similar proprietary rights
2. Advertising and public relations
3. Services from work as an accountant, attorney, engineer or similar work
4. Legal, technical and commercial consulting
5. Data processing
6. Provision and processing of information
7. Banking and insurance services
8. Provision of personnel
9. Forgoing the exercise of a right cited in this listing

10. Forgoing, in part or in full, the exercise of commercial activity
11. Leasing of movable objects with the exception of transport services
12. Intermediation of the services listed above
13. Telecommunications services
14. Radio and TV services
15. Other services performed electronically
(Where a third-country undertaking performs an electronic service for a non-undertaking resident on the territory of the Community, the service is performed where the latter maintains its residence, seat or habitual abode. However, there are special regulations for third-country undertakings performing electronic services for non-undertakings in several Member States at the same time. Such undertakings may opt for tax identification registration in a single Member State.
16. Allowing the access to power supply systems and to natural gasoline supply systems, the long-distance transfer via these supply systems as well as the rendering of other services directly connected therewith (as of 1 January 2005).

Single Market regulations in addition also include rules on inter-Community supplies and auxiliary services, inter-Community intermediation services and also rules in regard to inter-Community work on and evaluation of movable, physical objects.

4.4 Exemption regulations

Various different exemption regulations are provided. Most entail the loss of the right to deduct VAT already paid.

4.5 Basis of VAT computation

VAT is charged on all remuneration paid for the goods or services (exclusive of VAT). If the remuneration is not paid in money then VAT is determined according to the general value of the goods or services (fair market value).

The basis of tax computation for imported goods is the purchase price plus any customs duties or fees; consumption taxes where they obtain; as well as shipping costs to the first point of delivery within the European Union, unless this is included in the purchase price.

4.6 VAT rates

Standard tax rate at 20 per cent

The reduced tax rate at ten per cent is applicable, inter alia, to foodstuffs; animal husbandry, agricultural machinery and capital goods; books and antiques; accommodations; privately managed cinemas, theatres and museums; transport of persons.

VAT returns and payment of VAT

The undertaking must submit a monthly tax return (= advance VAT return) and pay the relevant amount by the 15th of the second month subsequent to the month in question. Any tax credit can be credited against other tax liabilities or, upon request, credited to a bank account.

In addition, an annual VAT return must be submitted aggregating the business year's prepaid VAT and import VAT. The monthly payments are deemed to be advance payments on the annual tax charge. The annual VAT return in principle must be filed by 30 April of the following year (in case of electronic submission see item 4.9). Extension of the deadline by one year is generally possible if the undertaking is represented in relation to the fiscal authorities by an Austrian tax advisor.

For deliveries within the EU summary reports must be filed (list of inter-Community deliveries of goods) on a quarterly basis by the 15th of the second month subsequent to the month in question. For deliveries, effected after 31 December 2005, EU summary reports usually have to be filed on a monthly basis by the 15th of the second month subsequent to the month in question – consequently they coincide with the monthly tax returns filed by electronic means. Furthermore, intra-community-deliveries and intra-community-acquisitions – unless they have not exceeded € 250,000 in the previous year – have to be reported to “Statistik Austria” (so called “Intrastat-notification”). The relevant report has to be filed monthly by the tenth business day of the month subsequent to the reporting period (e.g. on 10 February for January).

4.7 VAT consolidation

Tax consolidation is possible for VAT purposes if one undertaking (tax consolidation parent) controls subordinate undertakings (tax consolidation subsidiaries) in financial, commercial and organisational matters. Since the companies are then considered to be a unit for purposes of VAT only the tax consolidation parent is registered. Deliveries or other services between the tax consolidation parent and the tax consolidation subsidiaries are deemed to be non-taxable internal sales. Deduction may

be claimed by the tax consolidation parent for VAT previously paid. However the tax consolidation concept is only applicable to domestic companies.

The substitution of the consolidation concept relevant for taxes on income by the new system of group taxation will not affect the consolidation concept relevant for VAT purposes.

4.8 Reverse charge procedure

Since 2004 for all other services and for contractors' labour and materials provided by a foreign undertaking for a domestic undertaking the reverse charge procedure is in force. The foreign undertaking does not invoice any VAT and need not register in Austria for VAT purposes. The Austrian recipient in turn must pay VAT but is basically entitled to deduct the same as prepaid VAT.

Reverse charge for construction services

For construction services, the tax burden is being transferred to the recipient of the services if construction services are performed for an undertaking that in turn is commissioned with the performance of construction services or in turn usually performs construction services. Deemed to be construction services are all services serving to produce, repair, maintain, modify or remove construction edifices. Where the tax burden is transferred there is then an obligation to invoice without VAT. In addition as a consequence of this, separate records of remuneration for sales with transferred tax burden must be kept for construction services by the service provider and by the service recipient.

4.9 Electronic submission of VAT returns

Since 2004 there is the obligation to file VAT returns (first-time for 2003) and the summary report (reporting periods from 2004 onwards) by electronic means. Previously, there was only an obligation of electronic filing of prepaid VAT returns. Now where the undertaking cannot reasonably be expected to file tax returns electronically due to a lack of the technical prerequisites, filing of the tax return may be done with pre-printed forms. If the annual VAT return is filed by electronic means, the time limit to file the return as mentioned under 4.6 is extended from the 30 April to the 30 June of the following year. Extension of the deadline by one year again is generally possible if the undertaking is represented to the fiscal authorities by an Austrian tax accountant.

4.10 Foreign undertakings

Foreign undertakings without a permanent establishment or statutory seat in Austria, which do not effect deliveries respectively render services subject to the Austrian VAT or only deliveries or services for which the tax burden is being transferred to the recipient of the services (reverse charge) only get assessed for VAT-purposes if they apply for it. The same applies to foreign undertakings owing only the VAT-burden (which they are entitled to deduct as input-VAT in full), which has been transferred previously from another undertaking. As an alternative such foreign undertakings usually have the possibility to apply for the refund of incurred Austrian input-VAT at the Austrian tax authority by the 30 June of the year subsequent to the year in question.

5. Taxation of individuals

5.1 Territoriality and residence

All persons residing in Austria are subject to Austrian income taxation for their worldwide income. This includes income from any agricultural or forestry activity, any trade or business activity, income from self-employment and income from salaried employment, income from capital assets as well as income from rental and leasing as well as other income. Persons not resident in Austria are only taxed on income from certain sources in Austria. A person is generally deemed to be resident if he has his domicile or habitual abode in Austria, in any case after a six months' stay.

Nationality itself is not a criterion for judging residence or tax liability. However, it may serve as an indication of residence.

5.2 Income from salaried employment

Employee income

Income from salaried employment comprises money as well as benefits in kind the individual receives from an employer or a third party. Benefits in kind are evaluated according to special regulations, which in certain cases provide for general allocations (especially for motor vehicles). Company flats are estimated at 75 per cent of the gross rent actually paid by the company; compensation for privately paid lodgings is fully taxable. Certain minor benefits in kind are tax-free. Reimbursement of de facto moving costs of employees caused by transfers for operational

reasons and inter-company transfers are exempted from taxation; lump-sum moving costs are within certain limits tax-exempt. Any compensation paid for tax payments is fully taxable.

Special payments (e.g. 13th and 14th monthly salary, i.e. holiday and Christmas bonuses) up to an annual amount equal to two average monthly salaries are taxed at a standard tax rate of six per cent; the first € 620 being tax-free. Special payments exceeding this limit are taxed at standard progressive income tax rates.

To promote stock option participation schemes, spreading taxation out over five years was instituted within certain limits.

Non resident persons are subject to limited tax liability for income from Austrian sources at the regular tax rates.

Special regulations for expatriated employees

In order to reduce taxes for the growing number of foreign top executives being expatriated to Austria and to facilitate payroll accounting, an ordinance has been issued granting expatriated employees lump-sum allowances to be taken into consideration in ongoing payroll accounting.

According to that ordinance, “expatriated employees” are individuals who were not resident in Austria within the most recent ten years and who work for a fixed period of time for an Austrian employer (consolidated company or permanent establishment for payroll income tax purposes) in Austria on the basis of an expatriation agreement by his foreign employer. The intention may not be to have work in Austria persist for more than five years and the employees must maintain their residence in their home country and not rent it out. The purpose of the ordinance is to facilitate payroll accounting for expatriated employees.

The following allowances are taken into account:

1. Moving costs: lump-sum payments for moving due to expatriation are tax-free up to one-15th of the annual gross salary.
2. Costs for maintenance of a double household: appropriate rent costs for lodgings in Austria are tax deductible for the employee and his family up to a monthly amount of € 2,200.
3. Expenses for home leave: where the expatriated employee visits his foreign employer during his home leave then the trip is regarded as business travel and costs incurred may be treated as tax-free travel costs. No per diem allowances may be claimed for travel to the parent company as well as for home leave. In addition, cost reimbursements for home leave used for maintenance of the principal residence are tax-free for the employee up to a monthly amount of € 201.75.
4. Education costs for children (tuition): if children of expatriated employees accompany their parents to Austria and if

they have to attend a private international school instead of a public school in order to continue their education, then a monthly amount of € 110 per child is tax deductible.

In addition, special expenses, income-related expenses and extraordinary financial burdens may be claimed on the annual tax return under certain conditions.

The employer must send a written confirmation to the relevant revenue office at the beginning of the assignment and thereafter at the beginning of every calendar year; this statement must list the name of the employee for whom special tax advantages are being sought and it must provide the fiscal authorities with personal data including both the employee's address in Austria and his address abroad.

Alternatively the allowances cited above may be taken into consideration in the annual assessment.

5.3 Capital Income and other income

Capital Income

Capital income encompasses inter alia interest income, income from dividends as well as income from investment funds.

Interest earnings

Bank interest and interest from securities held in Austrian deposit accounts and derived by a person resident in Austria are subject to the 25 per cent withholding tax deduction by the Austrian depository bank. With this withholding tax deduction income tax as well as inheritance tax are deemed to be satisfied (final or definitive taxation).

Interest income from securities in foreign deposit accounts or foreign bank interest which is not subject to the withholding tax deduction must be included in the income tax return and is taxed at a 25 per cent special tax rate. Where income is subject to the special tax rate then it is also definitively taxed for the purposes of inheritance tax.

If the individual's table tax rate is less than 25 per cent then upon assessment application a reduction to the lower table tax rate is possible where all definitively taxable income as well as income subject to the special tax rate must be included.

Dividend earnings

Domestic earnings from dividends are definitively taxed for income tax purposes with the 25 per cent withholding tax deduction by the corporation distributing the dividend. Such definitive

taxation is deemed to apply to inheritance tax as well. However, in this case, only if the investor has a holding of less than one per cent of the joint stock company's authorised capital.

Since 1 April 2004 foreign dividend earnings paid to a domestic deposit account are now subject to final taxation through the 25 per cent withholding tax deduction.

However, if the foreign dividends are subject to a tax charge that is not equivalent to Austrian corporate income tax then these dividend earnings could be subject to the normal progressive income tax rate (up to a maximum of 50 per cent).

This income must then be included on the Austrian tax return. However this only applies if the Federal Ministry of Finance promulgates the ordinance and publishes a black list. It is at present still unclear whether or not this list will ever be published.

Dividend income paid to foreign deposit accounts must be included on the tax return. Such income is subject to the special 25 per cent tax rate. This also applies to final taxation for inheritance tax. However in this case only if the investor has a holding of less than one per cent in the joint stock company's authorised capital.

If one-half of the individual's average tax rate is less than 25 per cent then upon application for assessment a reduction to the lower tax rate is possible where all definitively taxable income as well as income subject to the special tax rate must be included.

Where disposal profits or income from capital assets are derived from abroad then the corresponding double taxation convention must be taken into account. As a rule, such conventions provide for Austria's right to tax while crediting corresponding foreign taxes paid.

Income from investment funds

Income from domestic Austrian investment funds held by a private investor in a domestic deposit account is basically subject to final taxation (25 per cent withholding tax). Before 1 April 2004 foreign dividends were not subject to the withholding tax and therefore the relevant taxable portions (of the income from funds) were shown by the domestic fund within the annual tax information. Investors had to include this portion into their tax return (subject to the special 25 per cent tax rate). Prior to 1 April 2003 such earnings also had to be included in the tax return but were subject to the progressive per cent tax rate. However, due to several high court decisions, the 25 per cent special rate should apply also for that period.

Foreign funds are divided into four categories for tax purposes:

- Reporting funds (“brighter than white” funds)
- White (non-reporting) funds
- Grey (non-reporting) funds
- Black funds

Reporting funds: From 1 July 2005 on, private investors investing in foreign investment funds have the benefit to be subject to complete and immediate final taxation if the fund follows a certain reporting procedure to Oesterreichische Kontrollbank (OeKB) and the fund certificates are held in an Austrian deposit. For such reporting funds, 25 per cent Austrian withholding tax on distributions and also on deemed distributed income (“DDI”) is levied on the reported taxable portions. Furthermore, for those funds no safeguard tax will be levied and in case of sale and redemption the investor will only be taxed with the accrued interest portion within the fund. Consequently, such reporting funds are treated according to the same method as applicable to domestic Austrian funds. If the certificates are not held at an Austrian deposit (i.e. no withholding tax is deducted), the investor has to include the reported income in his tax return.

White (non-reporting) funds: Generally, foreign funds, which are registered for public distribution in Austria and having a tax representative in Austria, who calculates the DDI and files an electronic tax return with the Austrian Ministry of Finance on an annual basis, are classified as white funds. DDI from white funds must be included in the investor’s annual income tax return (special 25 per cent tax rate).

Grey (non-reporting) funds: Foreign investment funds, which are not registered for public distribution in Austria but having a local tax representative who files a tax return with the Austrian Ministry of Finance, are classified as grey funds. For such funds the same taxation as for white funds applies.

Black funds: If the fund has no local tax representative, who files a tax return for the foreign investment fund until four months after the fund’s year-end, the income is subject to a very unfavorable lump-sum taxation (see table). If the taxpayer himself provides evidence on the amounts and composition of actual income of the black fund (self-calculation according to the method issued by the Austrian Ministry of Finance), the lump-sum taxation can be avoided.

Safeguard tax: For private investors, safeguard tax (which is only applicable to non-reporting and black funds) in the amount of 1.5 per cent p.a. of the net asset value at year-end (0.125 per cent per month of the net asset value as at the date of

disposal in case the fund certificates are sold or transferred to a foreign deposit) must be levied by the Austrian bank if the fund certificates are not disclosed to the tax office. The safeguard tax is treated as a prepayment of income tax.

Taxable income of foreign funds

Distributions and deemed distributed income (DDI) are subject to current taxation at 25 per cent flat rate.

Private investors are taxed at a 25 per cent flat rate on net investment income (interest, dividends, other income less expenses) derived from investment funds. Alternatively, the investor may choose taxation at progressive tax rate (generally, recommendable if the personal average income tax rate is lower than 25 per cent).

For private investors only 20 per cent of the realised capital gains resulting from the disposal of equities (and derivatives linked to equities) within the fund’s sphere are taxable at 25 per cent tax rate. Capital gains realised from the disposal of bonds and derivatives directly linked to bonds are tax-free.

If fund certificates are held on a domestic deposit, distributions are subject to a 25 per cent withholding tax.

As no Austrian tax can be withheld if fund certificates are held on foreign deposit, the distributions are subject to the special tax rate of 25 per cent and have to be declared in the investor’s income tax return. Expenses of the investor in connection with the fund certificates are not deductible.

To avoid double taxation the entire distribution is deducted from the DDI of non-reporting funds by the tax representative. Distributions paid out later than four months after the end of the financial year of the fund are tax-free, as they cannot be deducted from the fund’s income when calculating the DDI. For reporting funds, 25 per cent Austrian withholding tax is withheld solely on the taxable portions of the distribution. Consequently, for reporting funds only the taxable portions are deducted from net investment income.

Distributions, deemed distributed net investment income and taxable realised capital gains are subject to 25 per cent flat tax and have to be declared in the income tax return in case of non-reporting funds. If the fund follows the reporting regime, 25 per cent Austrian withholding tax is also deducted by the Austrian bank on the DDI. Therefore, DDI of the fund is subject to immediate and complete final taxation with the effect that income from such funds needs not to be included in the income tax return of private investors.

Taxation of non-reporting funds and black funds in case of sale/redemption:

If the fund's certificates are sold during the financial year of the fund, all distributions made between 1 January of the current year and the day the certificates are sold are fully taxable. Additionally, the investor is subject to 25 per cent taxation based on the higher of the following two amounts:

- The difference between the last redemption price of the calendar year and the redemption price on the day the certificates are sold;
- 0.8 per cent of the redemption price per month of the current financial year of the fund (calendar year in case of black funds).

Alternatively, the DDI figures for the whole financial year of the fund can be chosen as tax basis. Alternatively, the exact DDI for the period between the beginning of the fiscal year of the fund and the date of sale might be calculated.

Taxation of non-reporting funds and black funds in case of purchase:

Generally, the same principles as in case of a sale/redemption apply.

Taxation of reporting funds in case of purchase/sale:

If fund certificates of reporting funds are purchased/sold, the investor will receive a 25 per cent tax credit/deduction on the net interest income only; no lump-sum taxation (0.8 per cent per month) or taxation on basis of the deemed distributed income for the full financial year of the fund is applicable. Therefore, the fund is subject to immediate and complete final taxation with the effect that income from such funds needs not to be included in the income tax return of private investors.

Capital gains on investor's level caused by the sale of fund certificates within one year:

If fund certificates are sold within one year since acquisition by a private investor, additionally to the current taxation the difference between the acquisition price and the redemption price (reduced by any taxed portions, i.e. non-distributed but already taxed DDI) is subject to the progressive income tax rate (max. 50 per cent) as speculative income.

Summary of taxation of deemed distributed income (distributions see above):

Deemed distributed income (DDI) from	Taxation
Reporting funds <ul style="list-style-type: none"> • Ordinary income • Realised capital gains 	25% withholding tax Realised capital gains from bonds are tax-free. 20% of the realised capital gains from equities are subject to 25% withholding tax. The withholding tax on DDI is deducted by the Austrian bank. Therefore, no declaration within the tax return is necessary.
White non-reporting funds <ul style="list-style-type: none"> • Ordinary income • Realised capital gains 	25% special tax rate Realised capital gains from bonds are tax-free. 20% of the realised capital gains from equities are subject to the 25% special tax rate. The DDI has to be declared in the income tax return of the Austrian investor.
Grey funds (non-reporting) <ul style="list-style-type: none"> • Ordinary revenues • Realised capital gains 	25% special tax rate Realised capital gains from bonds are tax-free. 20% of the realised capital gains from equities is subject to the 25% special tax rate.
Black funds Lump-sum taxation The tax base is the higher of <ul style="list-style-type: none"> • 90% of the annual increase in value or • 10% of the NAV at year-end. Distributions made by the fund are also taxable but can be deducted from DDI.	25% special tax rate (on lump-sum calculated DDI or on self-calculated DDI)

Other income:

In general, capital gains stemming from private activities are not taxed, except for the two following cases:

1. Short-term capital gains

Profits from the disposal of both domestic and foreign assets are deemed to be short-term capital gains and are subject to income tax at standard tax rates if the period between the purchase and the sale amounts to less than one year (real estate ten years, in certain cases 15 years; there are special rules for disposal of the main residence). Short-term capital gains up to a maximum of € 440 per year are tax-free (tax-free limit). Short-term capital gains are only taxable in Austria for those with limited tax liability if they stem from the disposal of Austrian property or property-like rights.

2. Disposal of investments

Capital gains from the disposal of investments in corporations (in particular AG or GmbH) are only subject to income tax if the party selling owned, prior to disposal, at least one per cent of the company's registered or authorised capital within the previous five years. For persons with limited tax liability, such gains are only taxed if the company had its seat or effective management in Austria. In principle, equated with disposal is also any action by the taxpayer entailing loss of the right to tax by the Republic of Austria. Based on jurisdiction of the European Court of Justice the accrued tax liability will not be assessed in case of a removal to another EU-member state or EEA-member state (under certain conditions) on application. The tax liability will be assessed when an actual sale or removal to another EU-member state or EEA-member state is carried out.

5.4 Deductions**Income-related business expenses**

Expenditures for the “acquisition, securing or maintenance” of income are deductible from the taxable income from the relevant source of income. All employees are however entitled to a lump-sum tax allowance in the amount of € 132. Expenditures going beyond this amount may be claimed if they can be proven with written documents (e.g. office space, ongoing training; for those temporarily resident, see the Expatriate Decree as explained in item 5.2 under “Income from salaried employment”).

The employee portion of obligatory contributions to Austrian and/or foreign social security is tax deductible.

Special non business expenses

Deductible from income are certain special expenses but only

where annual income does not exceed € 50,900. These special expenses encompass contributions to voluntary health insurance, accident insurance and retirement pensions, voluntary contributions to pension funds set up by the employer and/or government social security, expenses for obtaining and renovating a residence in Austria, expenses for the acquisition of bonus shares and newly issued shares. For such expenses a general allowance of € 60 per year is granted unless higher payments can be shown. In the latter case the deductible amount is limited to 25 per cent of the expenses up to a maximum amount of € 2,920 per year for the individual taxpayer and € 5,840 per year for sole salary-earners who are married. For taxpayers with at least three children the amount is raised to € 4,380 for single taxpayers and € 7,300 for sole-earners. Taxpayers earning between € 36,400 and € 50,900 per year may only claim a portion of these special expenses.

Church tax up to an amount of € 100 and donations to certain institutions up to ten per cent of taxable income from the previous year are deductible. Tax consultant costs as well as pensions and permanent charges are deductible up to the full amount.

Exceptional heavy financial burdens

Where taxpayers are involuntarily affected by heavy financial burdens then these may be deducted from taxable income. Regardless of the actual kind of financial burden, they are deductible either in the amount of de facto expenses (e.g. natural disaster damages) or to the extent to which such expenses exceed an own risk amount, i.e. a certain percentage of income up to which a deduction is not allowed (e.g. medical costs, funeral expenses).

The percentage of the own-risk amount is a function of the taxpayer's income and financial situation.

Annual income in €	Own-risk amount in %
0 to 7,300	6
7,300 to 14,600	8
14,600 to 36,400	10
over 36,400	12

This percentage is reduced by one per cent for sole earners and for every child not yet able to support himself.

Personal allowances

Allowances are available as follows:	€
Employee deduction amount	54.0
Carfare deduction for employees	291.0
Sole earner deduction: for married couples or where there is at least one dependent child for single taxpayers and sole earners in a permanent partnership. ^{1) 2)}	364.0
Children ³⁾ – For every dependent child	610.8
Pensioners ⁴⁾	400.0

¹⁾ The sole earner deduction can only be asserted if the spouse's income is not higher than € 2,200 per calendar year. In the case of a family or cohabitation with one child, the amount is increased to € 6,000

²⁾ Additionally the following child supplements are introduced for the sole earner deduction:

- For the first child € 130 which is a total deductible amount of € 494;
- For the second child € 175 which is a total deductible amount of € 669;
- For the third child € 220 which is a total deductible amount of € 889;
- For each further child the amount rises by € 220.

³⁾ Pro rata according to the number of months in which the preconditions are met.

⁴⁾ The pensioner deduction is continuously reduced to zero between pension amounts of € 17,000 and € 25,000. As a rule the allowances are granted in the form of a tax credit, i.e. in the form of deductions from the tax burden. By contrast, child allowances are paid out to the taxpayer together with the family subsidy.

Tax credit

Austria has double taxation conventions with all of its major trading partners. Some of these conventions provide for complete or partial avoidance of double taxation by crediting foreign taxes paid (e.g. Canada, Japan, Great Britain, USA). Under most of the conventions, however, complete or partial double taxation is governed by tax exemption with reservation made for progressive tax rates. By way of exception from this rule, dividends and interests are in general fully taxed and the tax paid abroad credited.

5.5 Other taxes

Social security contributions

The monthly installments of mandatory contributions (before taxes) as applicable from 1 January 2005 onwards are shown as follows.

1. Retirement, health, unemployment, accident insurance and certain minor amounts

Types of social security contributions	Employer's portion in %	Employee's portion in %	Total %
Health	3.75	3.75	7.50
Unemployment	3.70	3.00	6.70
Retirement	12.55	10.25	22.80
Accident	1.40	–	1.40
Miscellaneous	0.50	1.00	1.50
Social security contributions (total)	21.90 *)	18.00	39.90

* Based on the maximum assessment baseline (gross salary) in the amount of € 3,630 per month.

2. In addition, the employer must contribute an amount of 4.5 per cent to the Family Burden Equalisation Fund, a local community tax in the amount of three per cent of the monthly gross salary or wages and in the city of Vienna a public transport levy in the amount of € 0.72 per week per employee. In addition, the Chamber of Commerce assessment is levied at the rate of about 0.40 per cent of gross salaries (totaling about 7.90 per cent).

For employment entered into after 31 December 2002 the employer is obliged to pay in 1.53 per cent of compensation (with a limit) to an employee pension fund.

3. Social security contributions are charged on bonus payments (e.g. 13th/14th monthly salary) in an amount up to € 7,260 per year at a total rate of 38.40 per cent (employer 21.40 per cent, employee 17 per cent).

For family members covered by the same insurance an additional contribution of 3.4 per cent of the insured's base contribution amount must be paid. There are exceptions mainly for children and spouses raising children.

Austria has concluded agreements with its most significant partner countries regulating social security. Nonetheless, in most cases exemption from Austrian social security contributions can be obtained for a certain amount of time for employees expatriated temporarily from non-EU countries. A prerequisite for tax exemption is that social security in the home country continues to apply and that this is certified for Austrian social security authorities. In respect of EU citizens, other regulations are applicable (Form E101). Submission of a valid Form E101 also

exempts from payment of the employer contribution at the rate of 4.5 per cent.

5.6 EU-withholding tax

On 1 July 2005 the EU-savings Directive (Council Directive 2003/48/EC) became effective. The aim of the directive is to enable savings income in the form of interest payments made in one EU member state (including associated and related territories and certain non EU member states) to beneficial owners who are individuals resident for tax purposes in an other EU member state to be made subject to effective taxation in accordance with the law of the later EU member state.

The effective taxation in the country of the individual resident shall be ensured by an automatic exchange of information concerning interest payments between the EU member states. Austria, Belgium and Luxembourg (as well as the non EU member states and certain territories) will not apply the automatic exchange of information at the same time as the other member states. Therefore, during a transitional period until 2011 a withholding tax shall ensure an effective taxation. The rate will increase progressively from 15 per cent (2005-2007), 20 per

cent (2008-2010) to 35 per cent in 2011. The EU-withholding tax is deducted in case of interest payments from an Austrian paying agent to an individual, resident in an other EU member state than Austria. No withholding tax will be deducted, if the beneficial owner provides a certificate drawn up in his name by the competent authority in his member state to the Austrian tax authorities.

5.7 Tax procedures

Tax returns

Submission of a joint tax return for several persons is not allowed. The tax year for individuals is always the same as the calendar year.

Payment of tax

In general with salaries and wages, interests and dividends (see item 5.3 "Income from capital assets") income tax is taken out through withholding at the source. For other types of income, advance payment against income tax is undertaken every quarter and by June of the following year an electronic tax return has to be filed.

Tax rates

Income tax

The tax rates for 2005 are as follows:

Annual taxable	Income Tax ¹⁾²⁾		Nominal Tax Rate	Effective Tax Rate
to € 10,000	€ 0		0 %	0 %
over € 10,000 to € 25,000	$\frac{(EK - 10,000) \times 5,750}{15,000}$		0 - 23 %	38.333 %
over € 25,000 to € 51,000	$\frac{(EK - 25,000) \times 11,335}{26,000}$	+ 5,750	23 - 33.5 %	43.596 %
over € 51,000	$(EK - 51,000) \times 50\%$	+ 17,085	> 33.5 %	50 %

¹⁾ From the resulting tax amount the tax deductions such as the sole earner deduction are made.

²⁾ The 13th and 14th monthly salary are subject to deductions for social security as explained in item 5.5 under "Social security contributions." The first € 620 are tax-free (see item 5.2 "Income from salaried employment"); tax is withheld in the amount of a standard rate of six per cent from the remaining income.

Payroll withholding tax

Austrian employers and foreign employers with permanent establishments for taxes on salaries in Austria must withhold income tax from salaries on a monthly basis and remit it by the 15th day of the following month to the relevant authorities. Employer costs must be paid on the same day to the relevant authorities.

Persons deriving their income exclusively from salaried employment are not obliged to file income tax returns. However where such persons claim income-related expenses or special expenses then partial reimbursement of taxes can be obtained by filing a tax return.

Family subsidies

For children, a tax-free monthly family subsidy is paid in Austria:

For children aged 0-3:

- € 105.40 per month for the first child
- € 118.20 per month for the second child
- € 130.90 per month for the third and each additional child

For children aged 3-10:

- €112.70 per month for the first child
- € 125.50 per month for the second child
- € 138.20 per month for the third and each additional child

For children aged 10-19:

- € 130.90 per month for the first child
- € 143.70 per month for the second child
- € 156.40 per month for the third and each additional child

For children aged over 19:

- € 152.70 per month for the first child
- € 165.50 for the second child
- € 178.20 per month for the third and each additional child

In addition, for every child an amount of € 610.80 per year is granted in the form of a child allowance deduction.

These family subsidies are also granted in cases in which no income tax is payable.

For persons with three or more children and low income an additional subsidy of € 36.40 is granted per month for the third child and each additional child (large family supplement).

The family subsidy is paid out by the relevant authority together with the child allowance deduction.

The new child-care is granted in the amount of € 14.53 per day and children are eligible for it for whom a mother-child examination certificate can be produced. Annual income limit: € 14,600.

Sample income tax computation

The following sample computation is given on the basis of legislative regulations and tax rates in force as of 1 August 2005.

Premises

Husband and wife both resident within the national jurisdiction, two dependent children; one spouse earns the entire family income; employment in Austria; social security in Austria mandatory; salary paid out in 14 instalments; interest income in Austria in the amount of € 11,250; foreign non-tax-favoured dividend, which are taxed abroad comparable to Austrian corporate tax, of € 7,030 (a double taxation convention is applicable); creditable foreign tax is ten per cent; favoured life insurance premiums in Austria of € 7,300 per year.

Tax computation	€	€
Salary		65,400
minus:		
Tax-favoured portion (13th and 14th monthly salaries) (€ 65,400 / 14 x 2)	9,343	
Social security contributions (12 x € 653.40 for current salary)	7,841	
Standard allowance – income-related expenses	132	-17,316
Special Expenses: Life insurance premiums (maximum amount) ¹⁾		-284
1. Interest income from deposits with an Austrian bank as well as bonds (gross): € 11,250 of which 25% final tax was paid (see below)		
2. Dividends under the Double Taxation Convention DTC-state gross € 7,030 - special 25% tax rate (see below)		
Taxable income		47,800

Income tax at the 33.5% tax rate		15,690
minus - Allowances: deductibles		
Sole earner deduction	669	
Employee deduction	54	
Carfare deduction	291	-1,014
		14,676
plus - Income tax on 13th and 14th monthly salaries (€ 65,400 / 14 x 2)	9,343	
minus - Social security contributions on the 13th and 14th monthly salaries	-1,234	
minus Allowance	-620	
	7,489	
of which 6% fixed tax rate		449
		15,125
plus - withholding tax on interest (25%) and special tax rate on foreign dividends (25%)		4,570
minus – Tax credits under a DTC for withholding taken out abroad on dividends (assumption: 10% of € 7,030)		-703
Total tax burden		18,992

¹⁾ (€ 50,900 - € 48,084) x 1,460 / 14,500 = € 284

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