

Doing business in Austria.

A short guide to the legal and
tax environment for enterprises



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



1. Country at a glance

The Federal Republic of Austria is situated in the heart of Central Europe. It's neighboring countries are the Czech Republic, Germany, Hungary, Italy, Liechtenstein, Slovakia, Slovenia, and Switzerland. It has an area of approximately 84,000 square kilometers with a population of approximately 8.4 million inhabitants.

Austria has nine independent federal states: Burgenland, Carinthia, Lower Austria, Salzburg, Styria, Tyrol, Upper Austria, Vorarlberg and Vienna. Last mentioned is also the capital city with approximately 1.7 million inhabitants. The official language is German. Since 1995, Austria is a member of the European Union. Regarding economic aspects, one objective is to gain economic harmonization among the 27 member states.

2. Doing business

Depending on what kind of business organization a foreign investor wishes to found, there are different legal principles to consider. The crucial question is, whether the investment is short-term or long-term-oriented. For long-term investments solutions, a foreign investor can choose between three different legal forms of Austrian business entity:

Limited-liability company (GmbH)

This legal form offers a very flexible establishment of a company. It can be founded by one or more, by individuals or legal entities, by Austrian or foreign shareholders. The share capital amounts to EUR 35,000, at least EUR 17,500 have to be contributed. The GmbH is legally established with its' registration at the Commercial Register.

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



Joint-stock company (AG)

Another form of incorporation is the joint-stock company. Similar to the foundation of the limited-liability company, it can be established by one or more shareholders. The minimum capital stock is EUR 70,000, at least EUR 35,000 have to be contributed. The structure consists of a supervisory board (Aufsichtsrat) and the executive board (Vorstand).

Partnerships

To establish a partnership, it is necessary that at least two parties agree to cooperate for maximizing their advantages. Partnerships have full legal capacity. A distinction is made between general partnerships (Offene Handelsgesellschaft) and limited partnerships (Kommanditgesellschaft).

A general partnership consists of at least two shareholders, who are personally fully liable for any debts of the company. A limited partnership consists of at least one general partner (Komplementär) and of at least one limited partner (Kommandist). While the general partner has an unlimited liability, the limited partner's liability is restricted to a certain amount which is recorded in the Commercial Register.

A composition between a partnership and the limited liability company is the partner-

ship limited by shares. The ownership and the liability are divided between the company's shareholders.

Private foundation

To establish a private foundation a declaration with the foundations' purpose needs to be set up. The founder can be one or more individuals or legal persons with a share capital of at least EUR 70,000. A foreign investor needs a legal domicile in Austria.

A nonresident company or individual can also operate through a branch rather than a subsidiary. The start-up costs are simply lower since no share capital must be paid up. Branches are taxed on Austrian-sourced income and at the normal (corporate) income tax rate. Non-European Union companies have to appoint a local representative, whereas European Union companies do not.

Employment law and working conditions

Superior to the Austrian employment law is the European Community law, since Austria is a member of the European Union. Labour law is covered by numerous acts and is among the most complex areas of Austrian legislation. Working terms and conditions are similar to those in the rest of the European Union.

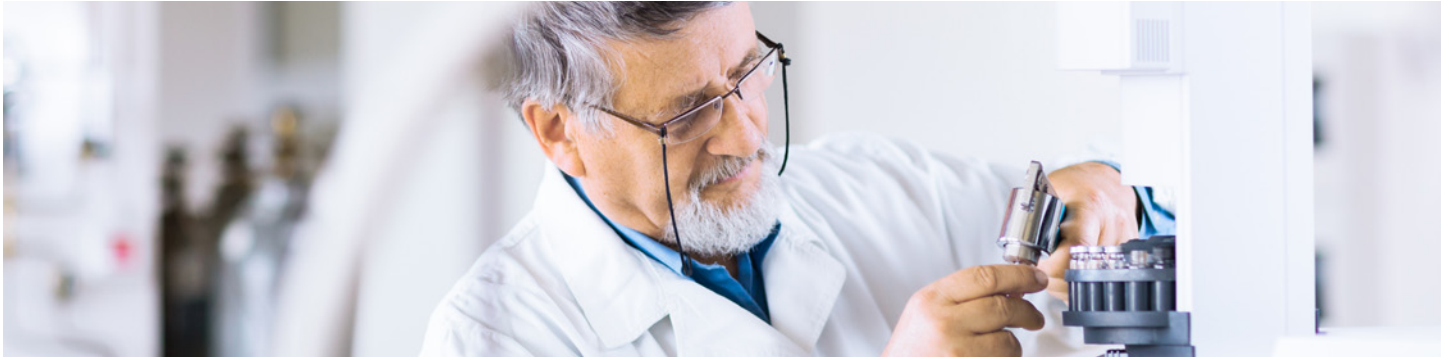
A widely-spread formative cooperation between employee and employer is the collective agreement: on an establishment level a bargaining agreement can be binding. If none of the mentioned regulations are applicable, a contract of employment is to be applied. The statutory maximum work week is 40 hours. The statutory maximum working day is eight hours, but may be extended up to 10 hours by collective agreement. It is illegal to pay less than the wage set by collective agreement. As these agreements are widespread, there is no minimum wage.

Visa

If you are a citizen of the European Union or of the European Economic Area you do not need a visa and you have the right to stay in Austria for three months. If you stay longer, you just need a certificate of registration. If you are a citizen of third countries and want to stay longer than six months within one year, you need a residence title for specific purposes.

3. Finance and investment

Several business activities demand a business license. If the foreign investor can prove former experience it is usually sufficient to get the business license. If the investor plans plants or premises the district administration is responsible for the issuance of permissions.



Banking & finance

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

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

For foreign investors it is very positive that in Austria there is a high level of liberalization in cross-border capital transactions. Since Austria is part of the eurozone it has no exchange controls. Reporting and client identification requirements apply to significant transactions and for purposes of anti-money laundering laws.

4. The accounting & audit environment

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

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

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

The Austrian Financial Reporting and Auditing Committee has developed measures to reduce administrative costs for companies. These new measures involve the possibility of combining the corporate balance sheet with the balance sheet for tax purposes. The Committee would like to investigate this possibility in view of the reforms proposed by the German law concerning the modernisation of company annual accounts.

Book-keeping

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

Inventory

When a company is founded and at the end of each fiscal year, it is required to keep exact records of its assets and debts as well as the value of these.

Annual accounts

When a company is founded, it must record its opening balance and at the end of each fiscal year, it must produce proper annual accounts.

Austrian companies that list their own securities on the stock exchange or for whom debt instruments are traded on the stock exchange must produce their consolidated accounts in accordance with IFRS (Interna-

tional Financial Reporting Standards). All other companies can choose between local GAAP and IFRS for their consolidated financial statements.

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

Annual accounts must be submitted electronically to the regional court and must be entered into the database of the commercial register (with the exception of companies with a turnover of not more than EUR 70,000). This regulation came into effect for the submission of annual accounts for fiscal years ending on 31st December 2007. This does not apply to small-scale, limited liability companies (Article 221 Section 1 of the UGB).

5. Overview of Tax System

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

- Taxes on income: income tax (Einkommensteuer), corporate income tax (Körperschaftsteuer)
- Tax on assets: real estate tax (Grundsteuer)
- Transaction Tax: value added tax (Umsatzsteuer), real estate transfer tax (Grunderwerbsteuer), foundation entrance tax (Stiftungseingangssteuer), capital tax (Gesellschaftsteuer)
- Excise taxes: Tabaksteuer (tobacco tax), Mineralölsteuer (petroleum tax), Alkoholsteuer (alcohol tax)

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

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

Taxes on business

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

Corporate income tax (Körperschaftsteuer)

The corporate income tax rate is 25%. Legal entities as capital companies, unincorporated associations or cooperative societies do not have to pay income tax concerning their taxable earnings, but corporate income tax.

VAT (Umsatzsteuer)

The Value Added Tax Code was amended in 1994 and is based on the European Commission Directive 2006/112. VAT that is charged by a business and paid by its customers is known as "output VAT". VAT that is paid by a business to other businesses on the supplies that it receives is known as "input VAT".

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

Personal taxation

Individuals who are tax resident in Austria are liable to Austrian income tax on their worldwide income. Individuals who are tax resident outside of Austria are only liable with respect to specific income with its source in Austria. Residents are subject to income tax derived from the following sources:

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

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

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

For residents the first EUR 11,000 of earned income is tax free, for non-residents only the first EUR 2,000. There are four bands in which the marginal rate for those at the top of the band is 0% at EUR 11,000, 20.44%

at EUR 25,000, 33.73% at EUR 66,000 and 50.00% at amounts exceeding EUR 60,000.

The first EUR 620 of special payments, such as the 13th and 14th salary is tax free. Above that amount, tax is paid at 6% on these special payments unless the bonuses are higher than two months' normal salary.

Starting in 2013, extra payments exceeding the tax-free allowance of EUR 620 plus a gross amount of EUR 24,380 will be subject to an increased, progressive tax-rate starting from 27% up to 50%, what effectively means an increase in the applicable average income tax rate for top earners by 3% to 6%. The increase in tax-rates for top earners is said to be of temporary nature and shall phase out in 2016.

Capital gains taxes

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

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

According to a new regulation capital gains from the sale of securities will be taxable for private investors irrespective of the holding period. The applicable tax rate on realised capital gains will be 25%. If the securities are held on an Austrian deposit, the 25% tax will be withheld by the Austrian depository bank.

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

In case the securities are held on foreign deposit the realized capital gains have to be included into the individual's personal income tax return. Further, expenses in connection with income from investments, which is subject to the 25% tax rate, shall generally not be deductible. Due to the new capital gains taxation regime for individuals the taxation of investment funds was amended significantly, too.

Inheritance & gift taxes

There is no inheritance or gift tax as such in Austria. Inheritance of property is treated the same as any other real estate transaction. Gifts in the form of shares, cash and the like must be reported to the tax authorities if they exceed EUR 50 000 in the case of relatives or EUR 15 000 in the case of third parties.

Wealth tax

Austria does not levy a net wealth tax.

Other taxes

Stamp duty

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

Property tax

The annual property tax of up to 1% is levied on the tax assessed value of Austrian property. An additional tax of 1% of the tax assessed value of land is payable for land without buildings, meaning that tax on undeveloped land is effectively up to 2% of the tax assessed value of the land.

Real estate taxes

Municipalities levy annual real estate taxes on all Austrian-situs immovable property, whether or not developed. This tax is levied at a basic federal rate, multiplied by a municipal coefficient on rateable value. The basic federal rate is usually 0.2% and the municipal coefficients range up to 500%. The value assumed tends to be below the market price.

For real estate transfer tax purposes, it is irrelevant whether an Austrian national or a foreigner enters into a sale and purchase agreement for domestic real property. It is clearly stated that the acquisition of foreign real estate by an Austrian national does not trigger real estate transfer tax in Austria. In both cases it is irrelevant whether the contract is effected in Austria or abroad.

One of the substitutional cases also triggering real estate transfer tax is the consolidation of all shares of the company owning Austrian real property in the hand of a single shareholder. The standard tax rate in Austria's real estate transfer tax act is 3.5%. The rate is reduced to 2%, if real estate is transferred between close relatives or spouses.

Customs Code

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

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

6. Social security contributions

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

The contribution to compulsory superannuation is the largest of the security contributions. Employers pay 3.83% and employees 3.82% of salary for the sickness insurance. Each pays 3% for unemployment and 0.5% for a housing fund. The employer pays another 1.95% for miscellaneous contributions, such as accident insurance. The employee pays another 0.5% for compulsory membership in the Chamber of Labor. This applies to white collar workers and differs slightly for blue collar workers.

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



Appendix

Compulsory social security contributions (white-collar workers)

Type of insurance	Up to	Employer	Employee
Health	EUR 4,230.00 p.m.	3.83%	3.82%
Accidents	EUR 4,230.00 p.m.	1.40%	0.00%
Pension	EUR 4,230.00 p.m.	12.55%	10.25%
Unemployment	EUR 4,230.00 p.m.	3.00%	3.00%
Other	EUR 4,230.00 p.m.	1.05%	1.00%
Ordinary Payments		21.83%	18.07%
Total p.m. (max.)		EUR 923.41	EUR 764.36
Total p.m. (max.)		EUR 11,080.92	EUR 9,172.32
Extraordinary payments		21.33%	17.07%
p.a. (max.)	EUR 8,460.00 p.a.	EUR 1,804.52	EUR 1,444.12
Total p.a. (max.)		EUR 12,885.44	EUR 10,616.44

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

Type of insurance	Up to	Employee	Total p.m. (max.)
Health	EUR 4,763.40 p.a.	7.55%	EUR 359.64
Pension	EUR 4,935.00 p.m.	22.8%	EUR 1,125.18

Double Tax Treaties with Austria

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

Moore Stephens City Treuhand

As an established business active in the fields of tax consultancy and auditing, Moore Stephens City Treuhand has for many years been providing a reliable partnership to its clients from its offices in Vienna and Krems and has therefore also remained an important constant in the region – particularly in turbulent times.

Although framework conditions change continuously, our goal remains the same: we want to be the first point of contact for our clients – in all questions about business management, taxes and compliance with legal requirements. We focus on competent consulting, continuity in the provision of personal assistance and tailor-made solutions to help our clients meet the objectives they have set themselves in both their business and personal lives.

With the aim of continuing in future to satisfy the high demands that we ourselves make on the quality of our services, we continuously endorse staff training and development and encourage commitment within the Moore Stephens network: to ensure that – wherever our clients are – they may also benefit from the knowledge and experience of our specialists who work at other locations.

Moore Stephens in Austria

Moore Stephens Austria is an Austrian network of independent partner firms working in the fields of tax consultancy and auditing. Specialists from 14 member firms provide best services and international know-how at twelve locations.

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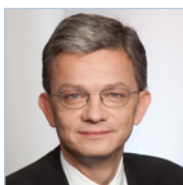
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