Investment Guide to Germany

Issue 2013





Foreword



Dear Reader,

Germany is one of the world's favorite foreign direct investment destinations – reputable international studies consistently confirm Germany's status as one of the world's most attractive investment locations. It's not hard to see why.

Germany remains the fourth largest economy in the world. Home to Europe's best-performing and largest economy, Germany generates around one fifth of total European GDP. Global technology leadership and a highly diversified industry sector are giving rise to all number of market opportunities in numerous industry sectors.

We believe that the country's business and industry infrastructure and technology and innovation leadership provide the complete "smart" business answer for international investors looking to do business in Europe.

That's why it gives me particular pleasure to present you with the new edition of the Investment Guide to Germany. This practical and easy-to-use handbook guides you step-by-step through the business and company formation process in Germany.

As a global agency that acts locally, Germany Trade & Invest has considerable experience in helping international companies set up business in Germany.

Our comprehensive range of advisory, business information, and project support services help smooth the path for easier international investment. Our new Investment Guide provides an easy orientation point for your future business activities in Europe's most dynamic economy.

The German market was never closer. And setting up business in Germany never easier.

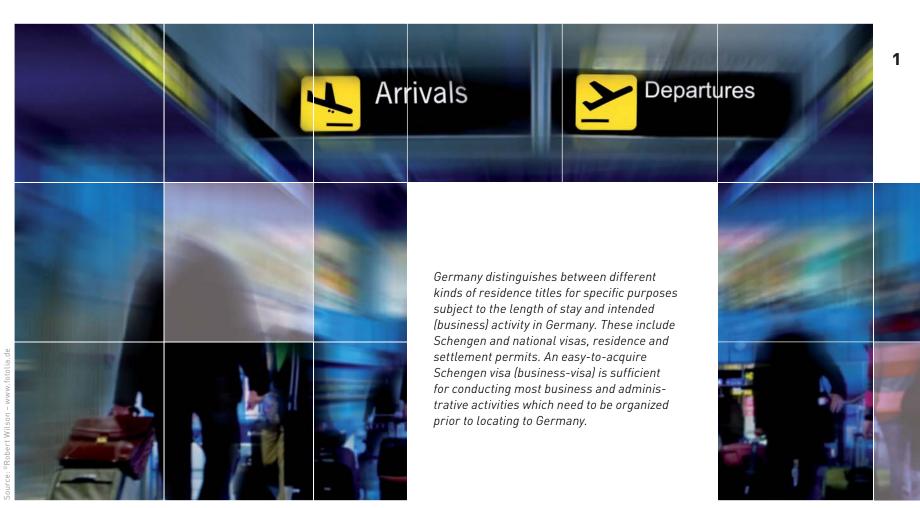
Talk to us today to find out how we can help your business.

Dr. Jürgen Friedrich

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Residence Titles

Germany distinguishes between three different kinds of residence titles:

- Visas (Schengen and national)
- Residence permit
- Settlement permit

A visa authorizes the holder to enter and stay in Germany for a temporary period (up to 90 days per six-month period from initial date of arrival). A residence or settlement permit authorizes the holder to stay for the long term (more than 90 days per sixmonth period) or to work on a self-employed basis or as an employee in Germany.

Who Requires a Residence Title?

EU citizens and citizens of the states of Iceland, Norway, Liechtenstein, and Switzerland do not require any form of visa, residence or settlement permit to be able to settle or work in Germany.

Citizens of non-EU countries require a Schengen visa for short-term stays in Germany (up to 90 days per six-month period starting from the initial date of arrival). All non-EU citizens require either a residence or settlement permit if the duration of the stay exceeds 90 days. For this purpose, a national visa is issued for the trip to Germany by the responsible German embassy in the applicant's home country or country of residence. This is then converted into a residence permit in Germany by the responsible local immigration authority.

Application and Issue

If a visa is required for entering Germany, an appropriate application must generally be made prior to entering Germany at the responsible German embassy or German consulate. The corresponding embassy or consulate will issue the required visa in the applicant's home country within a few weeks. Application costs EUR 60 regardless of international location.

It is possible to download visa application forms for free from the website of the German Federal Foreign Office (Auswärtiges Amt). Applications for a Schengen visa can be sent directly to the Federal Foreign Office online via an electronic application acquisition system.

Residence Titles for Differing Business Activities

Along with the investor's country of origin, the required residence title depends on the intended business activity in Germany. It is not always necessary to apply for a residence permit if a company is to be established in Germany. However, to manage a company on location, a residence permit is generally required in order to carry out a self-employed or dependent activity.

Nationals of certain countries do not require a Schengen visa for short-term stays in Germany. The Federal Foreign Office is able to provide detailed information.

auswaertiges-amt.de

Certain exceptions exist for citizens of the new EU states of Bulgaria and Romania who may require a work permit until the end of 2013. Please refer to our website.

gtai.com/visa

Establishing a Business

A Schengen visa is generally sufficient (usually called a business visa in this context) for most steps required to establish a business in Germany.

This permits a 90-day stay in Germany, during which time all of the key business formation steps can be carried out. These include:

- The conclusion and notarization of the articles of association
- Application for entry in the commercial register (through a German notary)
- Trade registration
- Other preparatory activities during the business establishment phase (such as opening a bank account or the conclusion of rental agreements)
- Negotiations and the conclusion of contracts with business partners

Please note: Establishing a business in Germany with a Schengen visa (business visa) is no guarantee for the subsequent issuing of a residence permit. For this reason it is necessary – appropriate to the intended business activities in Germany – to apply for a residence permit for the purpose of self-employment or regular employee purposes in advance.

If the establishment of the company and the stay in Germany exceeds 90 days it is also necessary to apply for a residence permit in advance.

On-Site Company Management

Business operators from non-EU countries and who manage their company on location in Germany as a self-employed person require a residence permit for the purpose of self-employment.

This is generally issued where:

- an economic interest or a regional need exists regarding business investments of the intended nature;
- positive economic consequences are to be expected from the investment project and
- the financing is secure.

The local immigration office (Ausländerbehörde) individually assesses to what extent these criteria are met. It takes into account the following aspects:

- Viability of the underlying business idea
- Foreign national's entrepreneurial experience
- Level of capital investment and availability of capital
- Effects on the employment and training situation
- Contribution towards innovation and research in Germany

The local immigration office involves the local trade office as well as the local Chamber of Industry & Commerce (Industrie- und Handelskammer), the Chamber of Skilled Crafts (Handwerkskammer) or other competent authorities regulating admission to the profession concerned.

An overview of the residence permits required for different types of business activity in Germany is provided at the Germany Trade & Invest website.

gtai.com/comingto-germany

A residence title for the purpose of self-employment is limited to a maximum of three years. If the investment project is successful (and success and sustainability appear to be secure over the long term), after three years it is possible to issue a (permanent) settlement permit.

Who is considered self-employed?

Foreign business operators are considered to be self-employed if they are:

- Sole traders (including freelance professions)
- Partners in a partnership
- Managing partners who are not employees of the company
- Managing directors or managerial employees with proxy or full power of attorney who personally carry a business risk

Residence Titles for Employed Persons

Employees from non-EU countries and who are employed in a new subsidiary company in Germany require a residence permit for the purpose of taking up employment in Germany. As with a residence permit for the purpose of self-employment, a residence permit is issued to employees for up to three years. As a rule, the residence permit can be extended without any problems. A permanent settlement permit is issued in most cases after a period of five years.

Specific requirements exist for citizens of the new EU states of Bulgaria and Romania who may require a work permit until the end of 2013. Please refer to our website.

gtai.com/visa

Federal Employment Agency Approval

As a rule, a residence permit for the purpose of taking up employment is only issued for certain professional groups (e.g. academics, IT professionals, managerial employees, and employees with specialist knowledge), and additionally, only if:

- it is possible to demonstrate a specific offer of employment, and
- the Federal Employment Agency (Bundesagentur für Arbeit) has issued its formal approval.

The Federal Employment Agency issues its approval if no suitable German employee or employees from other EU member states are available (so-called "priority check") and the foreign employees are hired at the same terms and conditions of employment as comparable German employees.

Special Rules

However, there are important exceptions to these basic rules. Certain professional groups have the right to a residence permit without requiring the approval of the Federal Employment Agency. These include, among others:

- Employed managing directors
- Managerial employees
- Scientific research personnel

Germany Trade & Invest's experts will be pleased to provide assistance concerning questions on specific individual cases.

Contact invest@gtai.com

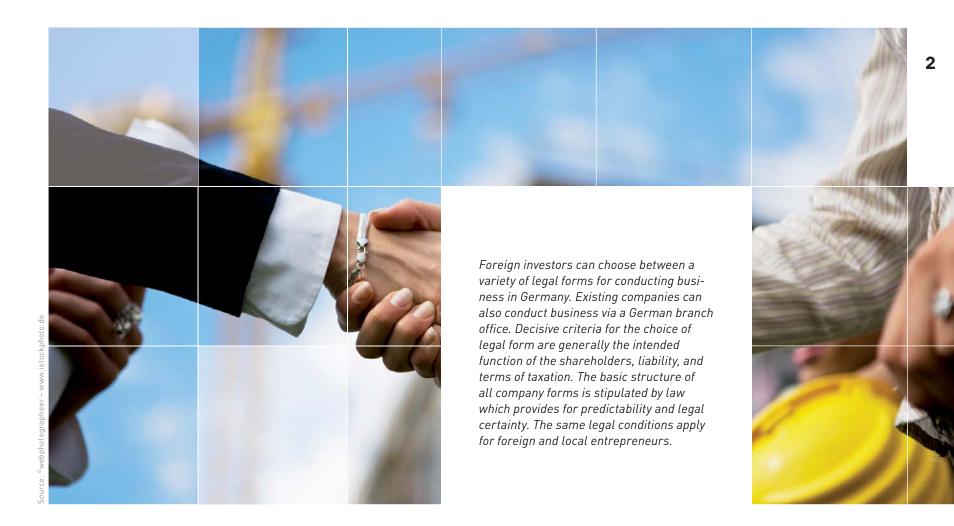
Exceptions also apply to citizens from the following countries: Australia, Israel, Canada, Japan, New Zealand, USA, and South Korea. Citizens of these countries do not have to belong to a specific professional group in order to obtain a corresponding residence permit. However, it is still necessary to obtain an authorization and priority check from the Federal Employment Agency.

EU Blue Card for Highly Qualified Employees

Since August 2012, the so called "EU Blue Card" (Blaue Karte EU) allows highly qualified non-EU citizens to be fast-tracked to employment in Germany. Foreigners may apply for this special kind of residence permit if they hold a German university degree (or a proven comparable qualification) and demonstrate a job contract with an annual gross salary of at least EUR 46,400 (2013). The local immigration office does not need to involve the Federal Employment Agency prior to issuing the EU Blue Card.

The annual gross salary level is lowered to EUR 36,192 (2013) in professions where there is a particular skill shortage (medical doctors, science and engineering professionals as well as information and communications technology professionals). Federal Employment Agency approval is required for this type of EU Blue Card. However, the Federal Employment Agency does not carry out a priority check in these cases, but only establishes whether the non-EU citizen is employed on terms less favorable than otherwise apply to comparable German employees.

Once a German EU Blue Card is obtained, holders can receive a permanent settlement permit within 33 months. This period may even be reduced to 21 months where a specified German language aptitude level can be established.



For further information on the taxation of corporations please read chapter 5, Company Taxation.

An overview of the different kinds of corporations is provided at the end of this section as well as at the Germany Trade & Invest website.

gtai.com/corporations

Corporations

The main feature of a corporation is the contribution of capital by shareholders. A corporation is a legal entity, meaning that the holder of rights and obligations is not the individual shareholder, but the company itself. The corporation itself concludes contracts, holds assets and is liable for taxation.

Corporations are liable to corporate income tax, trade tax and the solidarity surcharge. Shareholders have limited personal liability. As such, a minimum share capital is required.

Establishment of a Corporation

A corporation can be established by any number of different partners. Compensating the limited personal liability of the shareholder(s), a corporation requires a minimum share capital, e.g. a GmbH EUR 25,000. It can be contributed in cash or in kind (e.g. real estate or patents).

The establishment must be specified in the articles of association and certified by a notary. Additional establishment steps are necessary for certain forms of corporations.

The establishment procedure ends with registration in the commercial register (Handelsregister). Only at this point in time does the corporation's limitation of liability become effective. The application for the registration of the company in the commercial register has to be personally signed by the managing director(s) in the presence of a notary, who certifies and files it with the responsible commercial register in electronic form. Prior to the corporation starting business, the trade office (Gewerbe-/Ordnungs-amt) must be notified of the business activity in question.

Partnerships

In contrast to corporations, partnerships are not independent legal entities but associations of people. In partnerships, the individual partners responsible for the liabilities of the company (including private assets) act for the company. Limitations of liability for individual partners are only possible to a limited extent.

Accordingly it is not the partnership itself which is taxed (as is the case with corporations), but the individual partners. The taxable profit is determined at the level of the company and allocated to the partners according to their shares. The partnership itself is only subject to trade tax.

Germany Trade & Invest is pleased to answer individual questions specific to the establishment of a company in Germany (e.g. questions pertaining to the specific documentation required for establishing a company).

Contact invest@gtai.com

For further information on the taxation of partnerships please read chapter 5, Company Taxation

Steps for the Establishment of a Corporation (GmbH)

Drafting of articles of association

Notarization of articles of association

Payment of share capital

Registration in the commercial register

Trade office registration

The application for the entry in the commercial register is usually prepared by the authorized notary when articles of association are notarized.

An overview of the different kinds of partnerships is provided at the end of this section as well as at the Germany Trade & Invest website.

gtai.com/partnerships

The different kinds of partnerships differ primarily in terms of the contingent liabilities of the partners and the necessary registration obligations.

Establishment of a Partnership

Establishing a partnership is easy and can be completed in just a few steps. At least two partners are required to establish a company. A minimum share capital does not have to be raised. The management of the company can only be carried out by partners. Depending on the type of partnership, entry in the commercial register (Handelsregister) is required. The application is signed by all partners and must be filed by a German notary in certified and electronic form with the commercial register. If a business activity is carried out by the partnership, the trade office (Gewerbe-/Ordnungsamt) must accordingly be notified.

Branch Offices

In contrast to a subsidiary, a branch office is – in legal and administrative terms – part of the head office company and not a separate legal entity in its own right. The branch office carries out similar business activities to the head office company. In this context, the head office company is liable for the assets of the branch and all of its assets.

In Germany, there are two kinds of branch offices which primarily differ due to the degree of independence from the head office company.

Autonomous Branch Office

Foreign (commercial) companies can set up an autonomous branch office (selbständige Zweigniederlassung) in Germany if they are entered in a foreign commercial register (or a comparable directory).

The autonomous branch office is dependent upon the head office company at the internal level but engages in business activities independently. The relationships with the customers are generally subject to German law. However, the foreign head office company is liable for the business transactions concluded by the branch.

At the organizational level, autonomous branch offices are to a certain extent independent from the parent company and usually have the following attributes:

- Management with the freedom to act according to their own judgment (i.e. with full power of attorney and power to contract)
- Own capital resources and bank account
- Separate accounting

Germany Trade & Invest's legal experts will be pleased to answer any project-specific questions on the establishment of a branch office in Germany.

Contact invest@gtai.com The branch office must be entered in the commercial register (Handelsregister) and provide notification of any business activity it is practicing at the responsible trade office (Gewerbe-/Ordnungsamt). The branch office can use its own name affix but the company name of the head office must also appear including its legal designation (for example: XY Ltd., branch office, Berlin).

Dependent Branch Office

A dependent branch office (unselbständige Zweigniederlassung) is a subordinate department of the head office company and does not have any autonomy from it. It is not able to independently participate in the general business transactions of the head office. Invoices have to be made out in the name of the head office company. An individual company name cannot be used. Accordingly, the dependent branch establishment does not have to be entered in the commercial register. It is only necessary for the business activity that is being practiced to be notified at the responsible trade office (Gewerbe-/Ordnungsamt).

Other Forms

Offices that purely serve to observe the market and pave the way for initial customer contacts are often described as "representative offices." However, this is a term which does not exist in German commercial law. A representative office must usually be registered as a branch office in Germany.

Once an office is used by a foreign company for commercial activities (thus forming part of the foreign company organization), it generally must be registered at least as a dependent branch office in Germany. This is typically the case if the foreign company has a permanent representative who conducts the commercial activities of the company in a sustained manner and, in doing so, is subject to its instruction.

An office managed by a self-employed third party (e.g. a commercial agent authorized by the company) may be considered a case where no independent business activity is conducted on behalf of the foreign company. Where this is the case, registration of the foreign company with the local trade office is generally not required. Decisive here is the actual level of independence of the agent and their freedom to act without instruction from the company.

Four Different Forms of Corporations			
Legal Form	Minimum Number of Partners	Minimum Share Capital	Legal Liability
GmbH – Limited Liability Company	One partner	EUR 25,000	Liability limited to share capital
'Mini GmbH' – Limited Liability Entrepre- neurial Company	One partner	EUR 1.00	Liability limited to share capital
AG – Stock Corporation	One partner	EUR 50,000	Liability limited to stock capital
KGaA – Partnership Limited by Share	Two partners: general partner and limited shareholder	EUR 50,000	General partner: personal unlimited liability Limited shareholder: limited share liability

Four Different Forms	our Different Forms of Partnerships			
Legal Form	Minimum Number of Partners	Minimum Share Capital	Legal Liability	
GbR – Civil Partnership	Two partners	Not required	Personal unlimited liability	
oHG – General Com- mercial Partnership	Two partners	Not required	Personal unlimited liability	
KG – Limited Partnership	Two partners: general partner and limited partner	Not required	General partner: personal unlimited liability Limited partner: limited share liability	
GmbH & Co. KG	Two partners: general partner (GmbH) and limited partner (the general partner is typically the limited partner of the KG)	Not required	General partner (GmbH): personal unlimited liability Limited partner: limited share liability	

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Commercial Register

The commercial register (Handelsregister) provides information about all legally relevant relationships between merchants and commercial companies. The information is public and can be viewed by other companies.

The commercial register contains information about:

- The company of the business
- The name of the partner and/or the personally liable partner
- The managing director or the executive of corporations
- The capital stock of companies
- Liability limitations of partners
- The issuing and revoking of the power of attorney
- The opening of insolvency proceedings
- The dissolving and ending of a company

Commercial Register Display

The commercial register is managed by the district court where it is open to public view at no cost. The companies register can also be consulted online through the common register portal of the German federal states (Gemeinsames Registerportal der Länder, www.handelsregister.de). Some of the company data which is stored in the commercial register is also available electronically through the commercial register of the Federal Gazette (Bundesanzeiger, www.unternehmensregister.de).

Companies Required to Register

Companies required to register are those which carry out a commercial business operation. This is individually determined by criteria such as the use of commercial accounting, annual turnover, capital resources and total number of employees. As a rule, all status-relevant actions of companies are subject to registration.*

Registration Procedure

The application for registration in the commercial register is electronically filed in publicly certified form by a notary to the responsible commercial register.

As a rule, the possible limitation of liability of the partner(s) is only effective subsequent to the time of the entry in the commercial register for those company types where entry in the commercial register is part of the act of establishment. Partners can be liable for any losses of the company with their private assets if business is carried out prior to this point in time.

German notaries can be found online in the directory of the Federal Chamber of Notaries

deutschenotarauskunft.de

^{*}Exceptions apply to small businesses, civil law partnerships (GbRs), freelancers, and dependent branch offices.

The Federal Chamber of Notaries provides information about the exact composition and level of notary costs on its website.

bundesnotarkammer.de

For further information on the liberal professions please contact the Federal Association of Liberal Professions (Bundesverband der Freien Berufe).

freie-berufe.de

Registration Costs

The total cost of entry in the commercial register varies depending on the type of company. Costs incurred are made up of the costs of the notarial certification and the fees charged by the district court for entry and publication in the Federal Gazette.

The costs and fees are not levied on an arbitrary basis but are regulated by law. They largely depend on the number of partners and the share capital. Further costs can be incurred by the provision of additional legal advice.

Trade Office

Before starting their business operations, all business operators must inform the trades office (Gewerbe-/Ordnungsamt) of the town or local district in which the business operation is located.

In some additional sectors, business licenses are necessary (e.g. pharmacies, property developers, estate agents, brokers, security firms, pubs and hotels, and banks).

The liberal professions are not viewed as performing business activities. These include, for instance, lawyers, doctors, accountants, and architects. The liberal professions (i.e. those with binding professional rules) have professional institutes for professional authorization and regulation, as well as for complaints which can be contacted accordingly.

Registration Procedure

The registration of a business activity that does not require a license generally costs between EUR 20 and EUR 50. Additional costs apply for companies that require a business license. For the independent, non-industrial operation of certain trades (e.g. bakers, carpenters and precision mechanics) entry in the Register of Craftsmen (Handwerksrolle) is also required. The trades that are affected are listed in the Crafts and Trades Regulation Code (Handwerksordnung) where they can be directly consulted.

Automatic Forwarding

The trade office automatically sends a copy of the business registration to the responsible tax office (Finanzamt). The responsible tax office then sends a registration form to the company for tax registration purposes. It also sends the registration to other relevant institutions such as the respective Employer's Liability Insurance Association (Berufsgenossenschaft), the corresponding Chamber of Industry and Commerce (Industrie- und Handelskammer), and the Chamber of Crafts (Handwerkskammer).

The umbrella associations of the German Chamber of Industry and Commerce (Deutscher Industrieund Handelskammertag) and the Confederation of Skilled Crafts (Zentralverband des Deutschen Handwerks) offer an overview of all of the regionally responsible chambers.

dihk.de zdh.de

Chambers of Industry and Commerce and Chambers of Crafts

In Germany, the Chambers of Industry and Commerce (Industrie- und Handelskammern, IHKs) and the Chambers of Crafts function as the local interest groups of business operators in a spe-cific region. The chambers simultaneously realize more than just the general functions of professional associations for their members. They also:

- carry out active lobbying work by representing the interests of the company towards municipalities, state, and federal government;
- organize vocational training by defining the framework requirements and approving interim and final examinations;
- draw up certificates concerning, for example, admissible company names.

In addition to this, the IHKs also provide information about the local economic framework conditions in a specific region and provide foreign companies with business contacts to possible regional partners. All IHK members are also able to draw on the comprehensive advice and services of the responsible chamber. The chambers are generally the first point of contact in the event of day-to-day business problems. Membership of the IHK or Chamber of Crafts occurs automatically on registration in the trade office without requiring special registration. Crafts professions have to register with the Chamber of Crafts prior to the trade office notification. The costs of membership of the chamber depend on the turnover of the applicant company.



Incentives Overview

In simple terms, the various financial support measures available in Germany can be classified in terms of two overall packages: (i) the investment incentives package which includes different measures to reimburse investment costs, and (ii) the operational incentives package to subsidize costs once the location-based investment has been realized.

Germany's Different Incentives Packages and Respective Programs



Financial Support Eligibility Criteria

Set criteria determine the conditions under which a project is eligible for support. In this context, international investors are subject to the same criteria as German investors.

All incentives programs define industries as well as forms of investment eligible for support. The possible level of support depends on project-specific factors such as the planned investment location, the investment sum, and the size of the investing company.

Determining Company Size

Across Europe, company size is defined according to EU-set criteria. These divide companies into small, medium-sized, and large company classifications according to:

 Number of employees in the company/group (mandatory)

plus

Turnover of the company/group

01

Balance sheet total of the company/group

Germany Trade & Invest's incentives experts analyze the possible levels of support available for specific investment projects.

Contact invest@qtai.com

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Criteria Determining Company Size			
Company Category	Staff Headcount	Annual Turnover	Annual Balance Sheet Total
Small Enterprise	< 50	≤ EUR 10 million □	≤ EUR 10 million
Medium-Sized Enterprise	< 250	≤ EUR 50 million □	■ ≤ EUR 43 million
Large Enterprise	≥ 250	> EUR 50 million	> EUR 43 million

The criterion concerning the headcount is compulsory.

In addition, either of the annual turnover or the balance sheet criteria must also apply.

Source: European Commission

Investment Incentives: Cash Grants

Production site set-up or service location development is supported by investment incentives programs providing support in the form of cash grants. The distribution of these grants is steered by two important programs:

- Gemeinschaftsaufgabe "Verbesserung der regionalen Wirtschaftsstruktur" (GRW)
- Investitionszulage (IZ)

GRW Cash Grants

The GRW is a national incentives program which steers the distribution of direct subsidies for investment projects throughout Germany in specified areas.

The maximum level of support that is permitted varies within Germany. Generally speaking, this is dependent upon a region's level of economic development. In the so-called maximum support-areas, large companies receive up to 30% of their investment costs (that are eligible for support) reimbursed, medium-sized companies up to 40%, and small companies up to 50%. These maximum support areas are predominantly located in Eastern Germany.

In certain regions of western Germany as well as in Berlin, support is also available through the GRW, albeit at a lower level. Here, large companies can receive up to 15% of their investment costs (eligible for support) reimbursed, medium-sized companies up to 25%, and small companies up to 35%.

Eastern Germany's IZ

The IZ is a special incentives program created to promote investment activities in Eastern Germany. The IZ scheme supports investment projects in the federal states of Berlin, Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt, and Thuringia.

The IZ is granted tax-free. The program is based on the Investment Allowance Act 2010. Investors automatically receive IZ funding (subject to all eligibility criteria being satisfied) when investing in Eastern Germany.

Detailed information about the available level of support in the different regions of Germany can be found at the Germany Trade & Invest website.

gtai.com/cashincentives

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Information about

additional products

for foreign investors

is available at the

KfW website.

kfw.de

An upstream application process is omitted. The application has to be submitted to the competent tax authority (at the end of the year).

Investment projects in Eastern Germany can combine the IZ with support from the GRW. However, the level of support from both programs may not exceed the maximum level of support permitted in the respective region.

Interest-reduced Loans

The KfW Bankengruppe is the development bank of the Federal Republic of Germany. The KfW offers a wide range of financing instruments including loans, mezzanine financing products, and equity capital all prepared for investors in the form of differing programs. The most important KfW product for the financing of investment projects is the KfW Entrepreneur Loan (Unternehmerkredit). KfW programs are applied for via a company's bank.

State Development Bank Loan Programs

In addition to the KfW, each federal state also has its own development bank for the financing of investment projects in the respective state. These development banks also offer loan programs with attractive grace periods.

Interest-reduced loans may constitute a subsidy and can usually be combined with other public funding such as, for instance, subsidies from GRW support. However, the equivalent value of the subsidy of the loans from development banks must also be taken into consideration, when calculating the maximum level of public financial support for investment projects.

Public Guarantees

New companies often experience difficulties securing financing through the capital markets as the required loans often cannot be collateralized to a sufficient degree. In these cases (with economically appropriate projects), so-called "public quarantees" can replace or supplement any shortfall in securities.

Different types of public quarantee programs exist to support different types of investment projects within Germany. The guarantee program depends on the required amount, the size of the enterprise, and the investment region.

the total value of the loan is guaranteed.

Germany Trade & Invest's experts will be able to assist with contacting financial partners in Germany. Please visit our website for further information.

gtai.com/financing

Public guarantees are granted by the individual federal states (so-called "state guarantees" with a maximum bank quarantee volume of EUR 10 million). For projects in Eastern Germany, guarantees can be awarded by the federal state - together with the federal government - with a quarantee volume starting from EUR 10 million. In general, up to 80% of

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Labor-related Incentives

Labor-related incentives play a significant role in reducing the operational costs incurred by new businesses. Germany's Federal Employment Agency (Bundesagentur für Arbeit) and the German states offer a range of labor-related incentives programs designed to fit the different company needs when building a workforce. They can be divided into four categories:

- Recruitment support
- Pre-hiring training
- Wage subsidies
- On-the-job-training

Labor-related incentives are available throughout Germany independent of factors such as company size, industry sector, and investment project location. Programs can be carried out and adjusted by the local job center according to investor needs.

The regional job centers can be contacted via the central website of the Federal Employment Agency.

arbeitsagentur.de

Labor-related Incentives Programs Offers			
Recruitment Support	Pre-Hiring Training	Wage Subsidies	On-the-Job Training
Program Offerings			
Organization and support of recruit-ment process	Organization of training courses for unemployed candidates	Provided for employment of (longterm) unemployed candidates	Subsidies for further training measures within a company
Eligible Costs			
- Job vacancy advertisements - Pre-selection of candidates - Assessment centers	- Trainee labor costs - Training course costs	- Wage costs - Social security contributions	- Complete training costs
Possible Promotion Rates			
- Up to 100% of eligible costs subject to local job center budget	- Up to 100% of eligible costs for a training period of up to three months - Employment contracts are NOT required!	- Up to 50% of eligible costs for up to 12 months - The employer must guarantee long-term employment contracts, issued after the application for wage subsidies	- Up to 50% of eligible costs - EU notification required for costs exceeding EUR 2 million
Managing Authority			
Local job centers of the Federal Employ- ment Agency	Local job centers of the Federal Employ- ment Agency	Local job centers of the Federal Employ- ment Agency	Appropriate Federal State Labor Ministry

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Germany Trade & Invest's incentives experts regularly update and define the specific support possibilities for R&D projects in the scope of the High-Tech Strategy.

Contact invest@gtai.com

Research and Development Project Incentives

Research and development (R&D) projects in Germany can count on numerous forms of financial support. There are many programs allocating R&D grants, interest-reduced loans, and special partnership programs. Many of the programs are made available by the federal government but the federal states also offer special R&D programs.

R&D incentives programs generally provide money for R&D project personnel expenditure. Other costs for instruments and equipment may also be eligible if they can be clearly assigned to the relevant R&D project.

Germany's High-Tech Strategy

All research programs financed by the German federal government have been concentrated within the federal High-Tech Strategy. The High-Tech Strategy defines lead markets and priorities, as well as key technologies with a high dependency on ongoing high-tech research and development. Each area consists of a number of different R&D programs.

Project support is provided in the form of cash grants. The level of support can amount to 50% of eligible project costs. In certain instances, small and medium-sized enterprises (SMEs) benefit from higher levels of support.

Cooperation between project partners, especially between enterprises and research institutions, is usually required. The federal government periodically calls for R&D project proposals followed by a competition of best project ideas.

Technology-open Support

In addition, a number of national programs with no specific technological focus also exist. Application for incentives available under these programs is possible at all times, without any prior calls for proposals or application deadlines, with the Central Innovation Program for SMEs (ZIM) being the most prominent one.

R&D Support at the Federal State Level

In addition to the programs provided by the federal government, the individual federal states also have their own R&D support programs. These are primarily targeted at SMEs and are normally technology-open. However, some federal states do focus on specific technological fields. The level of support varies from program to program and mostly depends on the nature of the R&D project. Cooperation projects with other R&D partners are not always compulsory.

There are different models to finance R&D investments in Germany. Germany Trade & Invest's experts will be pleased to provide you with more information.

Contact invest@gtai.com

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For information on the establishment of corporations and partnerships, please read chapter 2, Types of Company.

Corporate Income Tax and Personal Income Tax

Companies in Germany are usually taxed on two levels. On the first level, corporations – such as the stock corporation (AG) and limited liability company (GmbH) – are subject to corporate income tax (Körperschaftssteuer), whereas partnerships are subject to personal income tax (Einkommenssteuer). Both taxes are levied by the federal government. On the second level, all business operations – corporations and partnerships alike – are subject to the trade tax (Gewerbesteuer), which is imposed by local municipalities (i.e. the town or city where the company is based).

Corporate Income Tax for Corporations

All corporations are liable to pay corporate income tax. The rate of tax is 15% on the taxable profits of the company. Corporate income tax is payable on undistributed as well as distributed profits.

The so-called solidarity surcharge (Solidaritätszuschlag) is added to the corporate income tax. This totals 5.5% of the 15% rate of corporate income tax, or 0.825%. Taken together, the corporate income tax and solidarity surcharge amount to a total of 15.825%.

Taxation of Dividends

Withholding Tax

If a German subsidiary company distributes profits to its corporate foreign parent company (a dividend payment) then a 25% rate of withholding tax (Kapitalertragssteuer) plus solidarity surcharge is payable. In the event of the existence of a double taxation agreement (DTA) between the Federal Republic of Germany and another country, the rate of withholding tax that is paid can be reimbursed according to the agreement stipulated in the corresponding DTA.

As a rule, dividend payments on the basis of a DTA are taxed at a reduced rate of taxation of just 5%, 10%, and 15%. At a partial level there is also the possibility of an initial exemption from withholding tax. The withholding tax paid in Germany can also be credited against the tax liability of the parent company which exists abroad or the parent company is made exempt from the taxation in regard to the received dividends. In effect, this means that no double taxation takes place.

As a rule, two fifths of the withholding tax paid can be reimbursed if the creditor of the dividend-paying German corporation is a foreign corporation and if there is no DTA between Germany and the foreign nation.

Within the EU, dividend payments between a corporate domestic subsidiary company and a corporate foreign parent company are tax-free over and above a 10% stake.

Final Withholding Tax

Profits which are distributed to **private stock-holders** are liable to a final withholding tax (Abgeltungssteuer) of 25% plus the solidarity surcharge. The final withholding tax is retained by the debtor of the dividend or the institution managing the deposit (for instance a bank) and then paid to the tax office. However, the application of a DTA may lead to a lower withholding tax if the private stockholder resides in another country.

The tax rate to which the partner of a partnership is subject can be optionally adjusted to the tax rate of corporations. Detailed information is provided on the Germany Trade & Invest website.

gtai.com/ personal-income-tax

Personal Income Tax for Partnerships

Partnerships are not managed as independent legal entities in the same way as corporations. The individual partners carry all of the rights and obligations. Accordingly, it is not the partnership itself which is taxed (as is the case with corporations), but the individual partners - with the personal income tax rate for the corresponding partner being the deciding factor.

The taxable profit is determined at the company level and allocated to the individual partners according to their shares. As a rule, both the undistributed and distributed profits of a partnership are liable to personal income tax. Income tax starts at:

- 14% for income that exceeds the annual exemption of EUR 8.004, and
- progressively increases to a top rate of 42% (starting at an annual income of EUR 52,882).
- A higher rate of tax of 45% is levied on every euro earned over EUR 250,731 per year.

As with corporate income tax, the solidarity surcharge of 5.5% is also added to the partner's corresponding rate of personal income tax. Amendments to the annual exemption from income tax are currently being considered.

Trade Tax

All commercial business operations in Germany are liable to pay trade tax irrespective of their legal form. The tax rate is set by local authorities - which means it can vary from one municipality to the next. However, trade tax is generally the same rate for all businesses within one municipality. Trade tax in Germany is currently set at between 7% and 17%.

Calculation of the Trade Tax

The corresponding rate of trade tax depends on two components:

- The tax base rate (3.5% throughout Germany)
- The multiplier (Hebesatz) stipulated individually by every municipality

The taxable income of the company is multiplied with the tax base rate (3.5%) which results in the so-called "tax base amount." This tax base amount is then multiplied with the corresponding municipal multiplier, which results in the sum total of trade tax which is due. The multiplier is set by each municipality. On average, it is between 350% and 400% but may not total less than 200%. There is no upper limit for the municipal multiplier. The municipal multiplier is generally higher in urban areas than it is in rural areas, although it does currently not total more than 490% in any of the large cities.

The employees of Germany Trade & Invest will be pleased to inform you about the current levels of trade tax at different locations within Germany.

Contact invest@gtai.com

Examples of offsetting the trade tax against income tax are available at the Germany Trade & Invest website.

gtai.com/trade-tax

Partnerships have an annual tax free allowance for the trade tax of EUR 24,500. The solidarity surcharge is not levied on trade tax.

Offsetting Trade Tax against Personal Income Tax

Unlike corporations (e.g. a GmbH), partnerships can offset some of the trade tax they pay against personal income tax – to the total of 3.8 times the trade tax base amount. This means that there is in effect no trade tax burden for partnerships in municipalities with a multiplier of under 380%. Trade tax still has to be paid to the municipality. However, it can be offset against the personal income tax.

Value-added Tax (VAT)

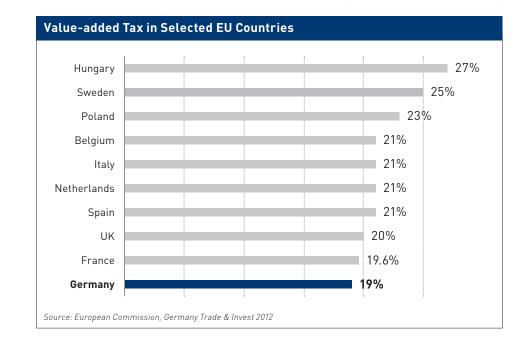
Value-added tax (VAT) is a tax on the exchange of goods and services. Companies are obliged to add value-added tax to the prices of their goods or services and to invoice their customers accordingly.

VAT Rate

The 19% VAT rate in Germany is below the European average. A reduced rate of 7% applies to certain consumer goods and everyday services (such as food, newspapers, local public transport, and hotel stays). Some services (such as bank and health services and community work) are completely VAT exempt. Value-added tax which is collected has to be paid to the responsible tax office on a monthly, quarterly or annual basis. The exact time frame depends on the company's level of turnover.

Input VAT Deduction

On purchasing goods or making use of services, companies regularly have to pay value-added tax themselves. The taxes collected and paid can be balanced out in the VAT return as input VAT deduction (Vorsteuerabzug). For companies, value-added tax represents a transitory item only.



Tax Declaration

Every taxpayer has to submit an annual tax declaration at the responsible tax office (Finanzamt). The tax office at the location in which the corresponding company has its (German) head office is responsible.

Registration at the Tax Office

With the establishment of companies, the registration takes place at the responsible tax office with the submission of the so-called "tax assessment questionnaire." This questionnaire is sent to newly established companies by the tax office once they have been established (or once they have registered their business).

Tax Collection and Deadlines

With the most important types of tax (corporate income, personal income, trade, and value-added tax) collection is made via advance payments (normally monthly or quarterly) which are offset against the actual tax liability in the annual tax declaration. The tax declaration has to be submitted by 31 May of the following year. However, this deadline can be extended on request.

Payment of Wage Tax

Employees pay wage tax (Lohnsteuer) – a special term for the income tax paid by employees. The employer is obliged to deduct the wage tax due directly from the salary of the employee and to pay it to the tax office on a monthly basis. For this reason, employees who do not get earnings from non-wage incomes may not be obliged to submit an annual tax declaration.

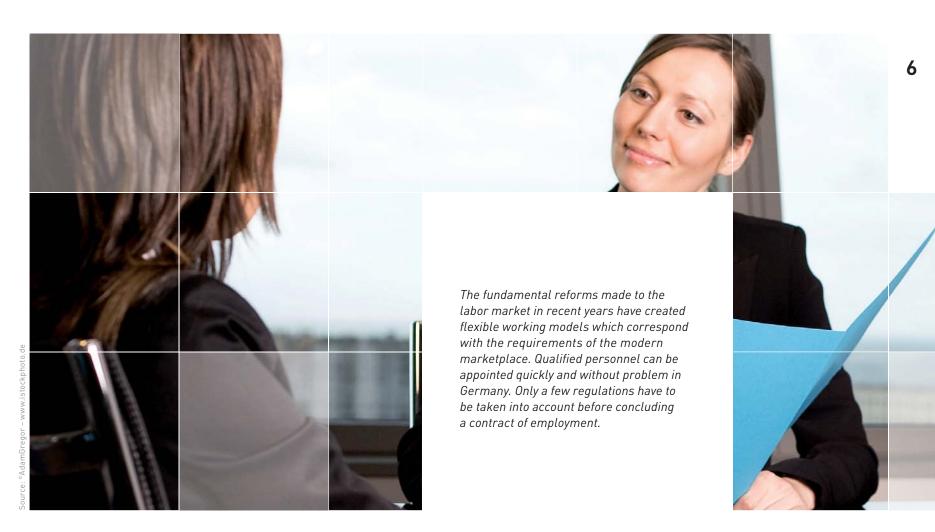
Electronic Tax Declaration

Tax declarations on income tax, wage tax, and valueadded tax can easily be submitted to the tax office electronically. The electronically submitted tax declaration is mandatory for business operators. Information, forms, and software products for submission of an electronic tax declaration are available at these websites.

elster.de esteuer.de

Information on the subject of tax declarations is provided in detail at the website of the Tax Information Centre of the Central Office of Taxes.

germantaxes.info



Finding Suitable Staff

Employers are basically free to define the recruiting process for potential employees. There are only a few guidelines that require consideration such as, for instance, the obligation to advertise and fill vacancies in a non-discriminatory way (particularly in terms of ethnic origin, gender, religion, world view, disability, age, and sexuality).

The regional job centers can be contacted via the central internet site of the Federal

arbeitsagentur.de

Employment Agency.

For information on wage subsidies please see chapter 4, Incentives

Recruitment Services

Companies are supported in various ways during their search for suitable employees. The Federal Employment Agency (Bundesagentur für Arbeit) offers professional recruitment services free of charge. It is represented with job centers in the municipalities throughout Germany.

There are also numerous private recruitment services providers. These companies normally charge the hiring company a fee of no more than two gross monthly salaries of the successfully procured employee.

Public Support

A wide range of public programs supports the development of a company's pool of employees offering qualification and training measures for new employees. In addition to this, under certain conditions, companies can also be supported by wage subsidies.

Flexible Employment Models

Germany has different models of employment, providing investors with flexible employment solutions – especially in the business start-up phase. Temporary employment agencies provide appropriate personnel at short notice.

Fixed-term Contracts

As a rule, contracts of employment in Germany are not limited by time but include a six-month probationary period in most cases. The contract of employment may be terminated at any time during the probationary period.

However, it is also possible to conclude employment contracts which have an agreed set duration (fixed-term contract). Fixed-term contracts expire automatically on a specified date without a formal dismissal requirement. It is for the employer to decide whether to renew the contract or not.

Fixed-term contracts are generally limited to a maximum of two years and may be extended up to three times provided the total duration of contract does not exceed the maximum of two years. During the first four years of a company's existence in Germany, employment contracts may be limited or extended several times up to a total duration of four years.

Germany Trade & Invest's legal experts will be pleased to provide information about suitable employment models for companies newly established in Germany.

Contact invest@gtai.com

Temporary Employment

Temporary employment means that a company leases employees from a temporary employment agency. The employee is legally employed by the temporary employment agency and receives the wage from the agency – as no formal contractual relationship exists between the leasing company and the employee. The employment conditions are usually regulated by collective agreements. Since 2012 the temporary employment sector is subject to statutory hourly minimum wages.

The duration and terms of termination of the service of the employee in the hiring company are subject solely to the service contract between the hiring company and temporary employment agency (and not to labor regulations).

In recent years there has been a significant increase in the number of temporary employment agencies providing appropriate personnel at short notice.

Mini and Midi Jobs

"Mini jobs" (also known as "450 Euro jobs") refer to employment contracts where salary paid does not typically exceed a total monthly sum of EUR 450.00 (i.e. marginally remunerated employment) or those in which the employee only works a maximum of 50 days per year (i.e. short-term employment).

In the case of marginally remunerated employment, the employer pays fixed rates of tax and social insurance contributions that total 30.99% (plus statutory accident insurance).

In addition, the employee is generally liable for pension insurance contributions of 3.9%. However, the employee is free to apply for an exemption from pension insurance (opt-out option).

With short-term employment, no social insurance contributions are due for health and pension insurance. It is only necessary to tax the income and to pay statutory accident insurance and some other minor allocations.

"Midi jobs" (also known as "low-salary jobs") are employee-employer relationships with an average monthly salary in the EUR 450.01 to EUR 850 range. Employees pay a reduced rate of social insurance for midi jobs. The employer pays the full contribution rate. However, this is below the contribution rate for mini jobs. The wage is normally subject to income tax.

Terms of Employment

In Germany, employment contracts are generally concluded in written form (although not obligatory). However, a binding German version is advisable as German courts require a German translation of any contract drawn up in another language in the event of any legal proceedings being instigated.

There is no legally fixed form for a contract of employment. Nonetheless, it is highly advisable to define certain points, such as:

- The description of the location and activity;
- The date of appointment and notice periods (in the case of fixed-term employment contracts the duration of the contract);
- The daily or weekly working time;
- Arranging of a probationary period;
- The level of the wage (gross) and possible bonuses;
- Vacation entitlement:
- Non-disclosure agreements or non-compete obligations;
- Contractual penalties

Salaries and Wages

The level of the salary or wage in Germany can be negotiated freely between the employer and employee. There is no general or uniform minimum wage. Binding minimum wages have been specified for a few sectors only.

Bonuses only have to be granted if they have been agreed in the individual employment contracts or in collective agreements.

Working Times

The legally permitted working time totals eight hours per day and 48 hours per week. Saturday is considered to be a normal working day. With a five-day week, the permitted weekly working time totals 40 hours. Sundays, in contrast, are generally considered to be days off. An extension of the working time to a maximum of 60 hours per week (or ten hours per day) is possible under certain conditions.

Overtime has to be compensated for with additional time off. An overtime bonus is possible but it is not legally specified.

Employees have the legal right to claim at least four weeks of paid vacation in a calendar year. The number of public holidays in Germany varies from one federal state to another.

The sectors to which a minimum wage applies are highlighted at the Germany Trade & Invest website.

gtai.com/ employment-terms

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Termination of Employment

A contract of employment can be terminated by the employer or the employee. Dismissals require written form and both parties have to observe the statutory notification periods.

Possible Reasons for Termination

An employment contract has to be terminated in written form (paper form). Electronic termination (e.g. via email) is not possible. Termination can only be effective if a specific reason for termination exists. This may be for personal, conduct-related or business reasons.

- Dismissal for personal reasons:
 Sustained illnesses or frequent bouts of short illnesses with a negative future prognosis, alcohol or drug addiction without a positive outlook for successful treatment
- Dismissal for conduct-related reasons:
 Arriving at work late on a frequent basis, refusal to work, unapproved use of the internet for private purposes, absence without a reason, criminal acts or violence at work
- Dismissal for business reasons:
 Closure of operations, company restructuring or a lack of orders

The business decision to cut back jobs under these circumstances is only limited reviewable by labor courts.

Exceptions exist for small companies with not more than 10 employees and for employment contracts which have existed less than six months. Here, terminations of employment contracts can be issued without a reason. The company is only bound to the agreed or legally specfied periods of notice.

Extraordinary (Immediate) Termination

Immediate termination of employment may be considered in cases of serious misconduct rendering it unacceptable for either party to continue the employment relationship.

- Exemplary reasons for the employer:
 Continued non-performance of agreed work,
 disturbance of the general working environment, theft, disclosure of sensitive information,
 non-authorized competitive engagement
- Exemplary reasons for the employee:
 Non-payment of wages, unlawful working

Immediate termination is only effective if the terminating party dissolves the employment within two weeks after the reasons for termination became known.

The German Social Security System

In contrast to some other industrialized countries, the core social security in Germany is collectively financed by means of a process of redistribution. The current costs for pensioners, sick people, those in need of nursing care, and unemployed people are paid directly from contributions by employees and employers alike.

Components of Social Security Insurance

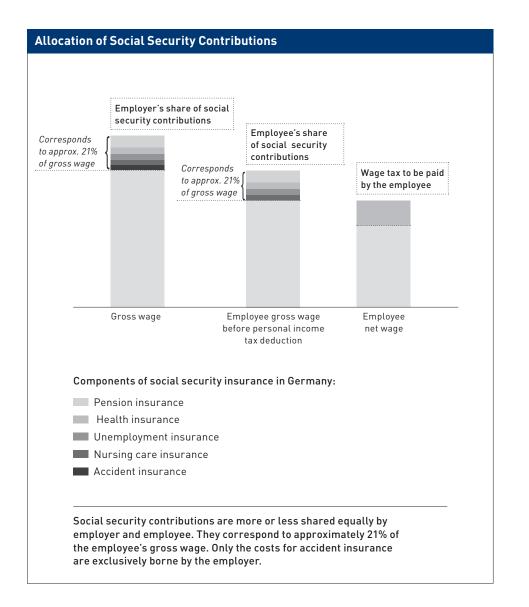
The German social security insurance system consists of:

- Health insurance
- Pension insurance
- Unemployment insurance
- Nursing care insurance
- Accident insurance

Generally speaking, social security contributions are roughly shared equally by employer and employee with the exception of accident insurance costs which are solely borne by the employer. From a certain level of monthly gross wage salary upwards, employees have the possibility to join a private health insurance company instead of the statutory health insurance obligatory for all employed people.

For more information on social security contributions plase visit the Germany Trade & Invest website.

gtai.com/socialsecurity



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The DGUV - the umbrella association of the German Social Accident Insurance - will assist you in identifying the appropriate Employer's Liability Insurance Association.

dguv.de

Payroll Accounting

Employees in Germany receive a net wage or salary from which tax and social security contributions have already been deducted.

The employer withholds the tax that the employee is required to pay and transfers the money directly to the tax office (*Finanzamt*). All employees must be registered with the local tax office.

Social security contributions are also withheld by the employer after calculation of the gross wage and transferred to the employee's health insurance company (which then distributes all of the contributions excluding accident insurance to all relevant parties).

The employer separately has to pay the contributions for the accident insurance to the Employers' Liability Insurance Association (Berufsgenossenschaft). Companies therefore have to register with the Employer's Liability Insurance Association.



Business Law

Law of Contract

German law of contract offers investors a reliable framework for action. The principle of contractual freedom enables the conclusion of contracts with freely selectable contractual partners and the free determination of the subject matter of the contract as long as the current law is not infringed. The basic structures of the key types of contract are governed in the German Civil Code (BGB). Contractual conditions are standardized to a high degree.

Contracts concluded according to German law are normally short and simple in structure. Existing legal regulations apply unless agreed otherwise in the contract: this not only saves time with the drafting of the contract, but it also reduces legal consultation costs.

Purchase Law

The purchase contract is the type of contract concluded most frequently. The concise legal regulation of purchase law considerably simplifies the conclusion of contracts on a day-to-day basis. The United Nations Convention on Contracts for the International Sale of Goods applies to international delivery of goods contracts in Germany.

Commercial Law

German commercial law corresponds with international standards and keeps up with the fast-paced nature of commerce. Global trading practices and standard trading contractual clauses such as "incoterms" (International Commercial Terms) are recognized. Global financing mechanisms for international trade such as letters of credit and payment guarantees also apply in Germany.

Basic Information on Litigation

There is no case law in Germany. This means that decisions made by courts are only binding for the participating parties and not other courts of law. Nonetheless, the decisions made by the superior courts are used as guidelines.

German courts undertake the organization and management of proceedings. The sequence of the proceedings in the civil process is primarily determined by the plaintiff. The plaintiff's application for relief determines the court's area of decision-making responsibility.

There are no so-called "pre-trials," such as those recognized by American law, in Germany. If the court orders a hearing of evidence, then as a rule, it is up to each party to prove the facts of their specific case.

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hold detailed infor-

mation on business

security in Germany.

invest@qtai.com

Contact

Costs of proceedings in Germany are low as they are calculated on the basis of the court costs and lawyer's fees. As a rule, the costs are to be paid by the party who loses the legal case. The costs are shared in the event of partial successes.

Intellectual Property

In Germany, intellectual property enjoys a high level of protection under the law. This is guaranteed by the registration of intellectual property rights. These property rights can be registered at the German Patent and Trademark Office (DPMA) for technical and commercial innovations in the form of patents, utility models, trademarks, and design patents.

On registering property rights, the same conditions apply for both foreigners and Germans. Applicants who have neither a place of residence nor a branch in Germany have to nominate a patent attorney as the representative for the signing of the patent registration.

Patents

To acquire a patent, a patent registration has to be submitted at the DPMA. Patent protection generally applies for 20 years subsequent to the day of registration and can - under certain conditions - be extended to a maximum of 25 years. Patents can be sold or made accessible to others through the issuing of use licenses.

Utility Models

Technical inventions (which do not describe a procedure) can be protected as utility models at the DPMA. The registration of a utility model generally takes place considerably faster than that of a patent. A utility model grants full protection but expires after 10 years.

Trademarks

A mark can be protected as a trademark by recording it in the register kept at the DPMA. With the registration of the mark, the owner acquires an exclusive, freely tradable right of use. They can include third parties in the use of the trademark through issuing a license. They are able to assert claims for compliance and damages in the case of infringement. Official registration can be made clear by positioning of the ®(registered trademark) sign after the mark.

Design Patents

New product designs can be registered by the DPMA. The owner acquires the exclusive right of use for the corresponding design. EU-wide and international protection can be attained by registering a European or international design patent.

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Licenses

Industrial rights of use can be granted to third parties by either an exclusive or a general license. Through the issuing of the license the license holder gains corresponding rights. In return, the license holder makes a payment to the licensor.

It is possible to distinguish between exclusive and general licenses. An exclusive license authorizes just one licensee for use within a certain area. A general license authorizes several licensees in the same place at the same time (depending on the configuration of the contract).

Addresses

Shareholders

Federal Ministry of Economics and Technology (BMWi) Scharnhorststraße 34-37, 10115 Berlin Tel.: +49 (0)30 18 615 0 www.bmwi.de

Federal Ministry of the Interior (BMI) Alt-Moabit 101 D, 10559 Berlin Tel.: +49 (0)30 18 681 0 www.hmi.hund.de

German Economy Partner

Worldwide Network of German Chambers of Commerce (AHKs) Breite Straße 29, 10178 Berlin Tel.: +49 (0)30 20 308 0 www.ahk.de

Association of German Chambers of Commerce and Industry (DIHK) Breite Straße 29, 10178 Berlin Tel.: +49 (0)30 20 308 0 www.dihk.de

Federation of German Industry (BDI) Breite Straße 29, 10178 Berlin Tel.: +49 (0)30 20 28 0 www.bdi.eu

Federation of German Wholesale, Foreign Trade, and Services (BGA) Am Weidendamm 1 A, 10117 Berlin Tel.: +49 (0)30 59 00 995 0 www.bqa.de

German-African Business Association (AV) Neuer Jungfernstieg 21, 20354 Hamburg Tel.: +49 (0)40 419 133 0

Tel.: +49 (0)40 419 133 (www.afrikaverein.de Latin America Association (LAV) Raboisen 32, 20095 Hamburg Tel.: +49 (0)40 413 43 13 www.lateinamerikaverein.de

German Near and Middle East Association (NUMOV) Jägerstraße 63 D, 10117 Berlin Tel.: +49 (0)30 20 64 10 0 www.numov.de

OAV German Asia-Pacific Business Association Bleichenbrücke 9, 20354 Hamburg Tel.: +49 (0)40 357 559 0 www.oav.de

East and Central Europe Association (OMV) Ferdinandstraße 36, 20095 Hamburg Tel.: +49 (0)40 33 89 45 www.o-m-v.org

German Confederation of Skilled Crafts (ZDH) Mohrenstraße 20/21, 10117 Berlin Tel.: +49 (0)30 20 619 0 www.zdh.de

Addresses

Federal States Partner

bw-i Baden-Württemberg International Willi-Bleicher-Straße 19, 70174 Stuttgart Tel.: +49 (0)711 22 787 0 www bw-i de

Invest in Bavaria Prinzregentenstraße 28, 80538 München Tel.: +49 (0)89 21 62 26 42 www.invest-in-bavaria.de

Berlin Partner GmbH Fasanenstraße 85, 10623 Berlin Tel.: +49 (0)30 39 980 0 www.berlin-partner.de

Brandenburg Economic Development Board (ZAB) Steinstraße 104–106, 14480 Potsdam Tel.: +49 (0)331 660 38 33 www.zab-brandenburg.de

WFB Bremen Economic Development Kontorhaus am Markt Langenstraße 2-4, 28195 Bremen Tel.: +49 (0)421 96 00 10 www.wfb-bremen.de

Hamburg Business Development Corporation (HWF) Habichtstraße 41, 22305 Hamburg Tel.: +49 (0)40 22 70 19 0 www.hwf-hamburg.de

HA Hessen Agentur Konradinerallee 9, 65189 Wiesbaden Tel.: +49 (0)611 950 17 80 www.invest-in-hessen.de Invest in Mecklenburg-Vorpommern Schlossgartenallee 15, 19061 Schwerin Tel.: +49 (0)385 59 2 25 0 www.qfw-mv.de

NGlobal Niedersachsen Global Osterstraße 60, 30159 Hannover Tel.: +49 (0)511 89 70 39 0 www.nglobal.de

NRW.INVEST

Economic Development Agency of the German State of North Rhine-Westphalia Völklinger Straße 4, 40219 Düsseldorf Tel.: +49 (0)211 130 00 0 www.nrwinvest.com

Investment and Economic Development (ISB) Bank of Rheinland-Pfalz Holzhofstraße 4, 55116 Mainz Tel.: +49 (0)6131 61 72 0 www.isb.rlp.de

gwSaar Saarland Economic Promotion Corporation ATRIUM Haus der Wirtschaftsförderung Franz-Josef-Röder-Straße 17, 66119 Saarbrücken Tel.: +49 (0)681 99 65 400 www.invest-in-saarland.com

Invest in Saxony Bertolt-Brecht-Allee 22, 01309 Dresden Tel.: +49 (0)351 21 38 0 www.wfs.sachsen.de

Addresses

Imprint

Investment and Marketing Corporation Saxony-Anhalt (IMG) Am Alten Theater 6, 39104 Magdeburg Tel.: +49 (0)391 568 99 0 www.investieren-in-sachsen-anhalt.de

WTSH Business Development and Technology Transfer Corporation of Schleswig-Holstein GmbH Lorentzendamm 24, 24103 Kiel Tel.: +49 (0)431 66 66 6 0 www.wtsh.de

LEG Thüringen
The State Development Corporation of Thuringia
Mainzerhofstraße 12, 99084 Erfurt
Thur (0.00)41 Ft 2000

Tel.: +49 (0)361 56 03 0 www.leg-thueringen.de

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Germany Trade and Invest Gesellschaft für Außenwirtschaft und Standortmarketing mbH

Friedrichstraße 60 10117 Berlin Germany T. +49 (0)30 200 099-555 F. +49 (0)30 200 099-999 invest@gtai.com www.gtai.com

Executive Board

Dr. Benno Bunse, Chairman/CEO Dr. Jürgen Friedrich, CEO

Authors

Iris Kirsch, Friedrich Henle, Christina Schön, Udo Sellhast, Investor Support Services, Germany Trade & Invest

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Germany Trade & Invest Friedrichstraße 60 10117 Berlin Germany T. +49(0)30 200 099-555 F. +49(0)30 200 099-999 invest@gtai.com

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