



**German Technology Symposium, Bangkok 2008**

## **Investment in Germany**

Market Entry – Legal Frame Work – Tax – Financing - Immigration

presented by

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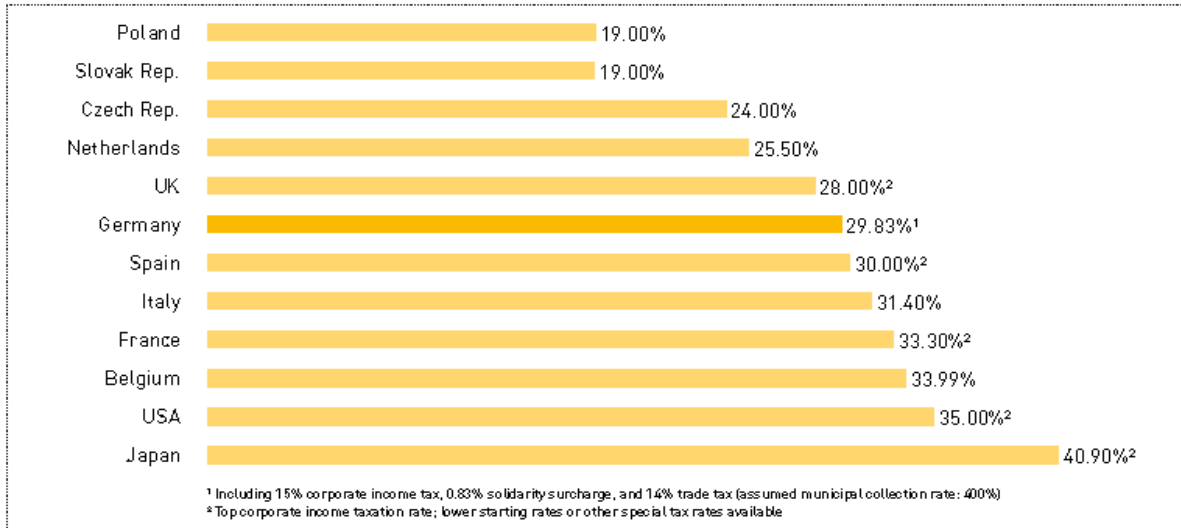






## Tax Burden International

Average Corporate Tax Burden (2008 or latest available year in %)



Source: German Federal Ministry of Finance; IFA (German Office for Foreign Trade); German Chambers of Commerce Abroad

## Foreign Trade & Investment Legislation

Germany regulates cross border business activities of nationals and foreigners basically as follows:

- International Agreements such as Taxation Agreements (Germany-Thailand...)
- EU-Legislation
- Foreign Business Act (Außenwirtschaftsgesetz) & Regulations
- Foreign Tax Act (Außensteuergesetz)
- Specific Regulations/Laws such as Implementing Regulations, Anti-Money Laundering & Foreign Currency Control, Anti- Dumping, Cartel Law etc.pp.

Since "State Fonds" of some well known jurisdictions are entering the international scene investment control is subject of public discussion and specific regulation.

Foreign investment might be checked and at the end prohibited under specific circumstances. Up to now, now single case is known when this happened.

## Investment control – direct & indirect restrictions

Investment in Germany by foreign citizens or companies is **generally not restricted**. **Foreigners are able to invest in any field of interest:** f.e. real estate.

"Generally means": In some business areas such as nuclear power, military, ammunition, investments are restricted or **prohibited** ("dual use industries").

Restrictions today are more indirect: Depending on the business special permissions or licences are required.

## **Import Regulations**

In accordance with its European Union membership, Germany applies the European Union (EU) rules that are in force in all European Union countries. While the EU has a rather liberal foreign trade policy, there is certain number of restrictions, especially on farm products, following the implementation of the CAP (Common Agricultural Policy): the application of compensations on import and export of farm products, aimed at favouring the development of agriculture within the EU, implies a certain number of control and regulation systems for the goods entering the EU territory.

Moreover, for sanitary reasons, regarding Genetically Modified Organisms (after being allowed in the European territory), their presence should be systematically specified on packaging. The beef cattle bred on hormones is also forbidden to import.

The BSE crisis (often called the "mad cow disease") urged the European Authorities to strengthen the phytosanitary measures to make sure of the quality of meats entering and circulating in the EU territory. The principle of precaution is now widespread: in case of doubt, the import is prohibited until proof is made of the non-harmfulness of products.

## **Distribution**

With more than 82 million people, the German market is the largest and most important in Europe. It is both very competitive and segmented, with supply-side saturation in many sectors and for many products. Quality and service are of the utmost importance in this market. The main trading areas of the country North Rhine-Westphalia, Baden Wurtemberg, Bavaria, Hamburg, Berlin and Hanover, as well as Leipzig in the former East Germany.

## **B to B Market**

The Business to Business (B to B) market

To sell in Germany, it is vital to be represented on a regional level, either by independent regional agents, or by a national organisation with regional support. Regional division usually corresponds with the Länder. However, North Rhine-Westphalia and Bavaria can be divided into two areas each, owing to their very large size.

## **B to C Market**

The Business to Consumer (B to C) market

The structure of German distribution is characterised by:

- a large number of small independent shops
- a low level of concentration in each sector, compared to the main European markets (France, United Kingdom, Belgium)
- a predominance of distribution in city centres and urban areas
- a low number of hypermarkets
- a predominance of discount stores and the importance of distance selling (mail order, e-commerce, teleshopping).



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German distribution is divided up according to the following distribution channels:

Distribution channel	(%)
Traditional retail trade	24.8
Specialised superstores	22
Non-food shop chains	13
DIY superstores	11.7
Discounters	11
Supermarkets	7.9
Mail Order	5.8
Department stores	3.8

Sources: Ifo-Institut & destatis

### Preparation of Market Access – Investment abroad

Your decision to enter a foreign market is milestone in the history of your business.

Be professional and keep in mind always: As long you are not working on a grass root level: All problems you might face later are probably caused by wrong preparation and mistakes made at the beginning of the planning.

<b>The Rules of Success</b>
<b>Study the Market</b>
<b>Preparation</b>
<b>The right Team, right man</b>
<b>Never without "Sherpa"</b>
<b>Feasibility Study</b>
<b>Business Strategy (in/out)</b>
<b>Legal Strategy</b>
<b>Tax Planning</b>
<b>Financing</b>

### Trade Fairs

Germany is the world's leading country for the organisation of trade exhibitions and fairs: these events are vital for a company to make a name for itself, find out who its competition is, find new customers, and develop loyalty among longer-standing ones.



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[http://www.e-trade-center.com/clin\\_038/nn\\_195432/sid\\_9879B908FB363E899D3AF77A4BE20AF3/Content/en/00\\_Homepage\\_en/Home\\_en\\_node.html\\_nnn=true](http://www.e-trade-center.com/clin_038/nn_195432/sid_9879B908FB363E899D3AF77A4BE20AF3/Content/en/00_Homepage_en/Home_en_node.html_nnn=true)

**German Thai Chamber in Bangkok**

Provides basic informations of the German market and assists you.

**Department of Export Promotion – Ministry of Commerce**

Offers a wide range of assistance and incentives for Thai Exhibiter s to join fairs in Germany and Europe.



**BOI – Board of Investment of Thailand**

Provides basic informations of the German market and assists you abroad via “Board of Investment Office, Frankfurt”.

**International Consultants – private sector**

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Investment, Investment Promotion, Business Planning, Accounting, Tax Auditing, Legal Service and Management Consulting: At the end investors need to implement their business strategy into practice.

The consulting industry in Germany industry offers top of the art service in any respect.



**Marketing Study - Feasibility Study – Business Planning**

“Study the market to avoid losses”. Indeed, it costs. But in challenging business world the requirements for foreign investors increase more and more.

Today, a professional business plan is one of the pre-entry-conditions for immigration of foreign nationals from Asia, South America or Africa.

Visa extensions will be made by the German Immigration Authorities (“Ausländerbehörde”, locally) based on external check of your business.

Description	Jan-08	Feb-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08
1 Days Payable - Direct Costs	14,00	14,00	14,00	14,00	14,00	14,00	14,00
2 Days Payable - Salaries	1,00	1,00	1,00	1,00	1,00	1,00	1,00
3 Inventory Level (Days)	42,00	42,00	42,00	42,00	42,00	42,00	42,00
4 Minimal Inventory [EURO - Tausend]	7.000,00	7.000,00	7.000,00	7.000,00	7.000,00	7.000,00	7.000,00
5 Purchase of Extra Inventory [EURO -							
6 Inventory Devalue [EURO - Tausend]							
7 Inventory Revalue [EURO - Tausend]							
8 Prepaid Tax (%)	15,00	15,00	15,00	15,00	15,00	15,00	15,00
9 Prepaid Tax [EURO - Tausend]							
10 Income Tax (%)							
11 Income Tax [EURO - Tausend]							
12 Interest Rate - Debit (%)	12,00	12,00	12,00	12,00	12,00	12,00	12,00
13 Interest Rate - Credit (%)	1,00	1,00	1,00	1,00	1,00	1,00	1,00
14 Products Pricing Trends (%)							
15 Salary Trends (%)							
16 Products Costing Trends (%)	2,00	2,00	2,00	2,00	2,00	2,00	2,00
17 Other Expenses [EURO - Tausend]							
18 Other Income [EURO - Tausend]							
19 Other Operating Income [EURO -	1.916,67	1.916,67	1.916,67	1.916,67	1.916,67	1.916,67	1.916,67
20 Minimum Cash Reserve [EURO - Tausend]	2.000,00	2.000,00	2.000,00	2.000,00	2.000,00	2.000,00	2.000,00
21 Unrecoverable Debts (% of Sales)	1,00	1,00	1,00	1,00	1,00	1,00	1,00
22 Warranty (% of Sales)	3,00	3,00	3,00	3,00	3,00	3,00	3,00
23 Credit Line [EURO - Tausend]	15.000,00	15.000,00	15.000,00	15.000,00	15.000,00	15.000,00	15.000,00
24 Guarantees Issued [EURO - Tausend]							
25 Guarantees Ended [EURO - Tausend]							
26 Cost of Issuing Guarantees [EURO -							
27 Cost of Maintaining Guarantees (%)							
28 Credit Line Including Guarantees [EURO -							
29 Short Term Loans handed out [EURO -							
30 Short Term Loans paid back [EURO -							
31 Interest Income for Short Term Loans							

**Financial Parameter Investment Business Plan**

## **Visa for Germany**

“Fortress Germany”, “Fortress Europe”. Yes, your concerns are right. It is more and more difficult for investors from Asia to receive a business visa for investments abroad.

5 basic regulations:

A visa will be granted for nationals from Asia investment or work when

- Investment of 1 Mio. Euro will be made and a staff of 10 employed
- Investment is sponsored by State to promote trade or relations
- Investment is sponsored by local authority
- Immigration is based on cultural or other public interest
- Investment below the requirement of 1 Mio. € – based on a feasibility study/business plan – proves to be successful. Re-evaluation will be made after 12/26 month by external check (“Prüfbericht”)

## **Visa mandatory**

In principle, all non-EU nationals need a visa to enter Germany. However there are exceptions for several countries.

Nationals of some non-EU countries may stay in Germany for up to three months without a visa for semi-annual visits. The Federal Foreign Office (Auswaertiges Amt) provides a country list with entry requirements into Germany for nationals from all countries.

EU nationals do not need a visa to enter Germany. They only have to register at the local registration office (Einwohnermeldeamt), which issues a declaratory residence permit.

Citizens of Iceland, Norway, and Switzerland are likewise exempt from visa requirements since these countries have signed the Schengen Agreement with the EU. Citizens of Liechtenstein, Monaco, Andorra, San Marino, and the Holy See are de facto participating in the Schengen Agreement due to the absence of border controls to their neighbouring Schengen countries.

## **Types of Visas**

There are different types of visas available depending on length and purpose of your stay in Germany. Visas for short term stays in or transit through Germany are regulated by the Schengen Agreement. Visas for long term stays in Germany are provided and regulated according to national law.

### **Schengen Transit Visa (Type B Visa)**

With the Schengen Transit Visa you may pass through the territories of the Schengen States once, twice or several times en route to a third State. Since this visa is meant for transit purposes, you may stay in Germany for only up to five days when passing through on the way to another country.

### **Schengen Travel Visa (Type C Visa)**

The Schengen Travel Visa permits travel and residence in all Schengen States. However it does NOT grant permission to take up work. It is valid for a total stay of up to three

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months per half year either as a continuous stay or in successive visits. The Schengen Travel Visa can be issued for up to 5 years in advance.

### **National Visa (Type D Visa)**

This visa is a long-term national visa meant for stays in Germany exceeding three months. German national visas (residence permit and settlement permit) enable their holders to:

- \* take up temporary or permanent residence in Germany
- \* for the purpose set out in the visa, and
- \* to transit through other Schengen States in order to reach Germany

### **Schengen Visa (Business Visa)**

For most activities in the formation phase of your business, a Schengen Travel Visa (in this context often termed "Business Visa") is sufficient. It enables its holder to stay in Germany for up to 3 months per half year. During this time, certain business activities can be performed, including:

- \* Conclusion and notarization (where necessary) of the company agreement
- \* Commercial register application (through a German notary)
- \* Trade office notification
- \* Other preparatory activities for setting up a business

### **The Residence Permit**

A residence permit is required by all foreign nationals from outside the EU, the European Economic Area (EEA) or Switzerland who intend to stay in Germany for more than three months.

The residence permit is

- \* limited in time and
- \* issued for a specific purpose, such as taking up work.

Anyone intending to work in Germany has to apply for a residence permit for the purpose of economic activity. There are two different kinds of permits:

1. Residence permit for the purpose of self-employment
2. Residence permit for the purpose of taking up employment

The residence permit for the purpose of economic activity also includes the work permit: Work permit and residence permit are issued in a single document by the responsible visa authority.

### **Visa Regulations for family members**

Family members of foreign nationals may be granted permission to live in Germany if

- \* the foreigner possesses a settlement permit or a residence permit, and
- \* sufficient living space is available.

Spouses of foreign nationals can claim a residence permit if the foreigner

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- \* possesses a settlement permit,

- \* has been in possession of a residence permit for five years or

- \* is in possession of a residence permit, if the marriage existed at the time of said permit being granted and the duration of the foreigner's stay is expected to exceed one year.

If these requirements are not met, the residence permit may nevertheless be granted on a discretionary basis.

Children of a foreigner who are not yet of age can claim a residence permit if both parents hold a residence permit or settlement permit and the child relocates to Germany with its parents.

Right to work for family members

Family members of foreigners in Germany are entitled to work if the foreigner is allowed to work. This even applies for self-employed activities irrespective of whether the family member fulfill the requirements mentioned above.

These regulations apply correspondingly to partners under the German Civil Marriage/Civil Partnership Act.

### **A & Q: Shall I have to travel to form a company to Germany ?**

Yes and no. First: To form a new company (articles of association/Gesellschaftsvertrag) - what has to be done in front of a public notary in Germany - your presence is not required. A **power of attorney** to a lawyer allows you to prepare all relevant documents in advance.

But: It is much easier to form a company when you show up yourself since documents sealed abroad would have to be translated by authorized interpreters, sealed and be verified by embassy or consulate and so on.

## **Establishment of a Company**

### **Choosing a legal form**

When choosing the legal form of the company, a corporation is usually the best option for larger, established companies. A corporation is a legal person, meaning that the holder of rights and obligations is not the individual shareholder, but the company itself. The company itself concludes contracts, possesses assets, and must pay taxes.

There are three major forms of corporations under German law:

- \* The GmbH (Gesellschaft mit beschränkter Haftung - limited liability company)

- \* The AG (Aktiengesellschaft - stock corporation)

- \* The KGaA (Kommanditgesellschaft auf Aktien - partnership limited by shares)

Liability is limited to the corporation's business assets, including share capital. A minimum share capital is required, and the accounting obligations are more extensive than those for partnerships.

### **Formation of a Limited Liability Company (GmbH)**

The German limited liability company (Gesellschaft mit beschränkter Haftung or GmbH) is the most popular legal form for corporations.



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It combines high flexibility with relatively few obligations. Additionally, the formation procedure of a GmbH is fairly uncomplicated.

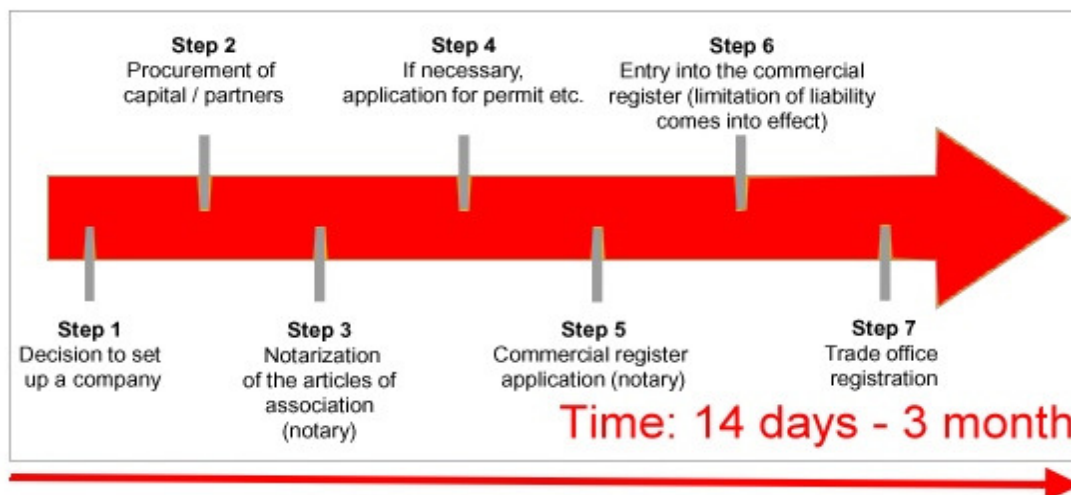
### Formation Procedure

The GmbH is established by the founding shareholder(s) executing a deed of formation and articles of association before a notary. The chambers of industry and commerce offer sample deeds.

In order to be valid, the GmbH must be entered into the commercial register. All managing directors must sign the commercial register application in person before a notary. The notary certifies the signatures, informs the managing directors about their duties, and files the application.

Upon registration in the commercial register, the GmbH becomes a legal entity and acquires full legal capacity. A GmbH must then be registered at the local trade office.

there are only a few steps needed to set up a GmbH. Ideally, the time period required for the formation of a GmbH is 2 to 3 weeks.



**Notice:** Ready made Limited Companies are available as well and take over is possible within one day.

### Capital requirements

To set up a GmbH, a minimum share capital of EUR 25,000 is required (this can also be made up of contribution in kind). At the time of registration, however, it is sufficient for half of the minimum capital, i.e. EUR 12,500, to have been actually and verifiably contributed. If the GmbH only has a single shareholder, this shareholder must provide security for any unpaid amount of the minimum share capital.


The estimated total costs for the formation of a standard GmbH are approximately EUR 750 to EUR 1,000, plus fees for legal counsel if a lawyer is employed to draw up the articles of association.

## Fees, Expenses of company formation in Germany : Limited Company

### Company Incorporation - Fees Germany

Average Costs of company formation: With offices in the Germany, Hong Kong, China and a network all over Europe our professional services includes (prices/Fees for EU-Nationals, Asia, USA, Canada, Australia, South America, Arabia):

#### Germany Company Incorporations

	£	€	US\$
<b>Incorporation German Limited GmbH</b> – (German version of a Ltd.)with statutory minimum share capital of €25,000	£610	€800	\$1000
+ additional			
Approval of the corporate name with the Chamber of Commerce (IHK)	0,00	0,00	0,00
Drafting of Articles of Association	£140	€200	\$250
Notary Public fees	£320	€480	\$1240
Court fees - incl certified copies.	£220	€300	\$370
Publication of the Articles and details of Incorporation in public Gazetts, Bundesanzeiger (Federal Publication)	£280	€300	\$480
Tax Registration, Business Licence Registration	£280	€300	\$480
Visa Application	£280	€600	\$780
Draft of CEO-Contracts	£280	€300	\$480
Total Incorporation Cost	£2140	€2.400 /3000,00	\$3730
<b>Incorporation AG</b> - with statutory minimum share capital of €50,000	£1280	€1800	\$2240
+ additional			
Approval of the corporate name with the Berlin Chamber of Commerce (IHK)	£70	€100	\$130 
Drafting of Articles of Association	£1430	€2000	\$2490
Notary Public fees	£1430	€2000	\$2490
Court fees - incl. certified copies.	£430	€600	\$750
Publication of the Articles and details of Incorporation in Gazetten	£280	€300	\$480
Publication of the Articles and details of Incorporation in Gazetten	£280	€300	\$480
Publication of the Articles and details of Incorporation in Gazetten	£570	€800	\$1000
Total Incorporation Cost	£5210	€7300	\$9100
<b>Registering a UK company as a branch:</b>			
Incorporating a UK company and registering it with the Chamber of Commerce	£1430	€2000	\$2490
<b>Additional Services:</b>			
Registered Office per year	£290	€400	\$500
Publication of the Articles and details of Incorporation in Gazetten	£280	€300	\$480
Publication of the Articles and details of Incorporation in Gazetten	£280	€300	\$480
VAT Registration	£190	€260	\$320
Bank Account opening	£220	€300	\$370

## **Management**

A GmbH is managed and legally represented by its managing directors (Geschäftsführer). The corporation must have at least one managing director, who does not have to be a shareholder or a German resident. By issuing binding instructions or directions to the managing directors, the shareholders may exercise direct influence on the GmbH's management.

## **GmbH and Freelance Professions**

The GmbH can be formed for any legally admissible purpose and can also be an attractive form of company for the freelance professions. The freelance professionals entitled to run a GmbH include architects, engineers, tax advisors, auditors, lawyers, and doctors.

As a rule, establishment of the company is dependent on membership in the associated professional organization. If the business purpose of a GmbH requires a license or permit under public law, this authorization is a prerequisite for the registration in the commercial register.

## **Branch Office (Niederlassung)**

Any foreign company with headquarters and business operations outside of Germany can establish a branch office. Especially if a foreign company wants a presence in Germany for the purpose of initiating business and maintaining contacts with business partners, or if a long term commitment in Germany is uncertain, a branch office could be a suitable business form.

A branch office has no independent or separate legal personality as distinct from the head office itself. In legal and organizational terms, it is part of the head office business and is thus subject to the law governing the head office.

A business branch forms part of the foreign company's organization. The legal liability of the branch office depends on the liability of the legal entity of the head office.

There are two kinds of branch offices:

### **Autonomous Branch Office (Zweigniederlassung)**

An autonomous branch office (Zweigniederlassung) has to display some degree of autonomy vis-à-vis the head office by having its own management with its own executive powers, separate bank accounts, a separate balance sheet, and independent business assets. Only foreign commercial business persons, who are registered with a commercial register, can establish an autonomous branch office.

The decision to establish a branch office must be made by the managing directors of the head office. The autonomous branch office must be entered in the commercial register and registered with the local trade office.

The application for registration with the commercial register must include detailed information on the foreign company and generally be accompanied by among others notarized in German certified translation of its articles of association as well as of its certificate of registration from the commercial register of its home country.

The application for registration of an autonomous branch office with the commercial register must be certified and submitted by a notary.



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On the first level, corporations – such as the stock corporation (AG) and limited liability company (GmbH) – are subject to corporate income tax (Körperschaftsteuer), whereas partnerships and sole proprietorships are subject to personal income tax (Einkommensteuer). Both taxes are levied by the federal government.

On the second level, all business operations – corporations, partnerships and sole proprietorships alike – are subject to the trade tax (Gewerbesteuer), which is imposed by municipalities, i.e. the town or city where the company is based.

### **Corporate Income Tax (Körperschaftsteuer)**

The standard corporate income tax (Körperschaftsteuer) rate is now **15 percent** on all taxable earnings of the corporation. This tax applies to both retained and distributed profits.

However, once profits are distributed to shareholders, the shareholders must, in turn, pay personal income tax on these profits (i.e. dividends).

#### **(1.1.) Solidarity Surcharge (Solidaritätszuschlag)**

The solidarity surcharge was introduced in 1995 to finance the German reunification. The surcharge is 5.5 percent of the assessed amount of both corporate and personal income taxes.

Accordingly, the solidarity surcharge is 5.5 percent of the 15 percent corporate income tax, adding up to a combined corporate income tax + solidarity surcharge burden of 15.825 percent.

#### **(2.2.) Reform of Company Taxation**

The reform of company taxation in Germany results in a considerable reduction – about 9 percentage points, or nearly one-quarter – of the average tax burden for corporations: the average tax burden has been reduced to less than 30 percent, assuming an average municipal trade tax collection rate of 400 percent.

One means of achieving this significant reduction was by cutting the flat corporate income tax rate from 25 percent – the rate applicable for all fiscal years ending in 2007 – to 15 percent.

#### **(3.3.) Compensation Tax (Abgeltungssteuer)**

Other amendments relating to corporate taxation include the abolishment of the previously applicable “half-income system” with respect to private capital gains in favor of a new compensation tax:

Under the current “half-income system,” only 50 percent of all dividends and speculation gains were subject to personal income tax at the shareholders individual income tax rate.

Under the reformed law, 100 percent of all dividends and speculation gains will be subject to a new 25 percent compensation tax.

Shareholders with an individual personal income tax rate of less than 25 percent can request that their individual tax rate to be applied.

The compensation tax will become effective in 2009.

## **Trade Tax (Gewerbesteuer)**

All commercial business operations in Germany – defined as all independent activities aimed at generating profits over the long term, irrespective of the legal form – are subject to trade tax (Gewerbesteuer) with regard to their taxable earnings.

Independent freelancers such as doctors, architects, lawyers, or artists are not deemed commercial business operations and therefore are exempt from the trade tax.

The applicable trade tax burden depends on two factors:

- \* The tax assessment rate (= the standard trade tax base rate)
- \* The trade tax collection rate stipulated by every municipality

The tax assessment rate has been lowered to 3.5 percent for corporations, partnerships, and all other business operations.

The resulting trade tax base amount is then multiplied by the applicable municipal collection rate (Hebesatz), which is determined by every municipality and applicable to all companies based in the municipality.

By law, the municipal collection rate must be at least 200 percent (resulting in a minimum total trade tax burden of 7 percent), and in conurbations it can be as high as 490 percent. The average municipal collection rate is somewhere between 350 percent and 400 percent, and as a rule, collection rates tend to be higher in urban areas than in rural areas.

Collection rates may be altered annually by the city council, but usually remain fairly constant.

A trade-tax-exempt allowance of EUR 24,500 applies for both partnerships and natural persons running a commercial business operation.

### **(1.1.) Solidarity Surcharge (Solidaritätszuschlag)**

No Solidarity Surcharge is levied on trade tax payments.

### **(2.2.) Reform of Company Taxation**

The tax assessment rate has been reduced from a previous 5 percent to 3.5 percent.

Moreover, the option to offset trade tax payments against personal income tax will be improved considerably. Previously, partnerships and sole proprietorships could offset trade tax payments against their personal income tax burden with a weighting factor of 1.8.

Under the reform of company taxation, this weighting factor has been more than doubled to 3.8.

Accordingly, the personal income tax of a partnership or sole proprietorship can be reduced by 3.8 times the trade tax base amount.

Another change pertains to the addition of interest payments and financial commitments to the trade tax assessment basis. Until 2007, only the total interest payments on long-term debts were added. From 2008, a fractional amount of all interest payments and financial commitments is added, thus rendering the hitherto requisite and often difficult differentiation between short-term and long-term liabilities obsolete. As a rule, 25 percent of all interest payments and financial commitments are added to the trade tax assessment basis under the new system; rent, lease, or license fees will be considered at a lower fractional amount.



Income Tax Burden, Single Person			
Taxable Income	EUR 40,000	EUR 80,000	EUR 160,000
Tax According to Basic Table	EUR 9,223	EUR 25,686	EUR 59,286
Average Burden	23.06%	32.11%	37.05%

Source: Invest in Germany

### Tax Bonuses

Tax bonuses are available for:

#### (1.1.) Married Couples

The institution of marriage and the family enjoy special protection in the German constitution. For this reason, married persons receive tax benefits. Couples with a marriage certificate can benefit from the "spouse splitting procedure," whereby the incomes of the spouses are added and distributed equally among the two partners. This offers married couples considerable financial advantages in situations where only one partner generates income, or where there is a significant income gap between the partners.

Income Tax Burden Married Couple

#### (2.2.) Children

The government pays child benefits for each child. Alternatively, parents with higher incomes might find it more beneficial to take advantage of the child allowance. The allowance for each parent is EUR 1,824, and thus EUR 3,648 for both parents combined. An allowance of EUR 1,080 is added for childcare costs. In some special cases, if a child is disabled for example, additional costs can also be deducted.

### Solidarity Surcharge (Solidaritätszuschlag)

The solidarity surcharge, introduced in 1995 to finance German reunification, is 5.5 percent on the assessed amount of both personal and corporate income taxes.

Accordingly, the solidarity surcharge is 5.5 percent of a person's personal income tax rate. In the case of an individual income tax rate of 30 percent, the combined personal income tax + solidarity surcharge burden would equal 31.65 percent.

Total Burden with Income Tax

### Withholding Tax (Kapitalertragsteuer)

Withholding tax, or capital gains tax, is a subcategory of personal income tax. It functions as an advance payment on the tax due for interest on a financial investment or on shareholder dividends.



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If a bank pays out capital gains, such as interest on a financial investment or dividends from stock corporations, the bank must withhold the tax and transfer it to the tax authorities.

Total Burden with Income Tax				
	Single Person		Married Couple	
Taxable Income	EUR 40,000	EUR 80,000	EUR 40,000	EUR 80,000
Income Tax	EUR 9,223	EUR 25,686	EUR 5,700	EUR 18,446
Solidarity Surcharge 5.5%	EUR 507,26	EUR 1,412.73	EUR 313.50	EUR 1,014.53
Total Tax Due	EUR 9,730.26	EUR 27,098.73	EUR 6,013.50	EUR 19,460.53
Average Burden	24.33%	33.87%	15.03%	24.33%

Source: Invest in Germany

The withholding tax rate is between 15 percent and 25 percent, depending on the type of capital gain. The payment is then offset against the personal income tax.

Capital gains from foreign investors are governed by double taxation agreements with the respective countries. Where a double taxation agreement stipulates a lower withholding tax than the one applicable in Germany, the foreign shareholder can either file an application at the Federal Central Tax Office for reimbursement of the withholding tax paid in excess, or apply for an advance exemption from the excess share of withholding tax (this option is only available to corporations).

The Federal Republic of Germany has concluded bilateral agreements with over 90 states. A list of these countries can be found on the homepage of the Federal Central Tax Office.

### Church Tax

Residents in Germany who have chosen to officially register themselves as members of the Roman Catholic or Protestant-Lutheran churches are liable to church tax. Church tax is not a sub-category of personal income tax. However, the amount of church tax depends on the personal income tax liability.

Depending on the federal state, church tax amounts to between 8 percent and 9 percent of an individual's personal income tax burden. Church tax is collected by the tax authorities and distributed among the churches.

Secular persons or members of other religious affiliations are not liable to pay a church tax.

### Value Added Tax

Value added tax (VAT) is not borne by the selling company, but paid by the end user of a product or service.

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The normal VAT rate of 19 percent is just under the European average.

A lower rate of 7 percent is charged for convenience goods and services needed on a day-to-day basis, such as food, newspapers, or public transport.

Some services – including banking, healthcare, and non-profit work – are VAT-exempt.

The official German term for VAT is Umsatzsteuer, but it was originally called Mehrwertsteuer and is still often referred to by this name.

### **Procedure**

Companies must add VAT to their prices. Assuming the net sales price of a car is EUR 15,000, the car dealer must demand an extra 19 percent, or EUR 2,850, from the buyer. The gross price for the customer is therefore EUR 17,850. The dealer transfers the VAT received to the tax authorities on a monthly, quarterly, or annual basis. The period depends on the level of company turnover.

### **Input VAT**

Companies themselves also pay VAT when they purchase goods or services. The taxes collected and paid can be balanced out in the VAT return as input VAT (Vorsteuerabzug).

In practice, companies occasionally pay out more VAT than they receive. This is often the case in the start-up phase, for example, when expenditure is high but income is still low. In these cases, the tax authority quickly refunds the excess tax paid.

### **SMEs – Imputed Taxation and Taxation of Actual Value**

An important ruling for small and medium-sized companies is the option of actual receipts taxation (Istbesteuerung). Under the normal method of imputed taxation (Sollbesteuerung), VAT is due as soon as goods or services are billed, irrespective of the time of actual payment. However, German law provides an exception to ensure that companies do not experience cash flow problems as a result. A company can apply for VAT to be calculated by the actual receipts taxation method for a turnover of up to EUR 250,000, rather than the imputed taxation method. In this case, smaller companies do not need to forward the VAT to the tax authority until the payments have actually been received. In states in eastern Germany, the ceiling will be EUR 500,000 until the end of 2009.

### **VAT in the European Single Market**

Trade within the EU is free from customs and other restrictions.

However, a few rulings must be borne in mind with regard to VAT. When goods or services are sold to private consumers in other member states, the VAT for a delivery from Germany is included on the invoice in the same manner as for deliveries in Germany, and is collected and transferred to the tax authority.

The foreign consumer therefore pays the German supplier the price including VAT, and the vendor then transfers the VAT to the German tax authority. In the case of imports from countries that also charge VAT, however, no German VAT needs to be paid. The German consumer only pays the purchase price including (foreign) VAT to the foreign importer, who then pays the VAT in the home country.

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VAT identification numbers exist to enable the tax authorities to retain an overview of the traffic of goods across borders. This number indicates that European companies are liable to VAT.

### **Import Turnover Tax (Einfuhrumsatzsteuer)**

Goods imported from non-EU states are liable to import VAT.

The import VAT (Einfuhrumsatzsteuer) rate is 19% and is paid to the customs authority.

However, the Import Turnover Tax on goods imported from non-EU states can be deducted as input tax (Vorsteuer) by the tax authority if the company resells the goods. As a prerequisite, the company must have the necessary import documents with customs proof of payment (the import declaration). Exports are exempt from VAT.

### **No Import VAT on Intra-Community Shipments**

Goods sold directly from a Germany-based company to a commercial customer in another EU member state in the course of commercial trade are exempt from import VAT.

However, the recipient entrepreneur in the EU member state of destination is subject to acquisition tax with regard to the received intra-Community shipment. The acquisition tax rate – like import VAT – amounts to 19% / 7%, but in contrast to import VAT it is the recipient entrepreneur who has to declare these acquisitions to the tax authorities in the advance VAT return (Umsatzsteuer-Voranmeldung).

Like all other input VAT, the tax-paying entrepreneur can directly deduct the paid acquisition tax in the advance VAT return.

The following additional information have to be included in any invoice of the exporting company in the course of a VAT-exempt intra-Community shipment.

- \* Information about the VAT exemption of the intra-Community shipment
- \* VAT identification number of the exporting company (in Germany issued on request by the Federal Central Tax Office)
- \* VAT identification number of the receiving company/purchaser.

The VAT identification numbers of selling and receiving company must be issued from different EU member states.

**Expenses: How to run a business in Germany / Business Premises**

Description	Currency [Tausend]	Market / Profit Center	VAT Rate (%)	Payment Days	Jan-08	Feb-08
net rent	EURO	Oberhavel	19,00	14,00	1.624,00	1.624,00
operational costs	EURO	Oberhavel	19,00	14,00	654,50	654,50
fees for chambers, others	EURO	Oberhavel	0,00	14,00	148,00	149,48
Aufwendungen Altersversorgg.	EURO	Oberhavel	0,00	14,00		
Cleaning	EURO	Oberhavel	19,00	14,00	123,00	123,00
Maintenance	EURO	Oberhavel	19,00	14,00	166,00	166,00
Telefon	EURO	Oberhavel	19,00	14,00	235,00	235,00
Fax, Internet	EURO	Oberhavel	19,00	14,00	2,00	2,00
Insurance, business	EURO	Oberhavel	0,00	14,00	301,00	301,00
Insurance, personal	EURO	Oberhavel	19,00	14,00	677,56	677,56
monthly fees	EURO	Oberhavel	19,00	14,00	150,00	150,00
Car-Insurance	EURO	Oberhavel	19,00	14,00	259,00	261,59
operation costs car	EURO	Oberhavel	19,00	14,00	493,00	497,93
car repairs	EURO	Oberhavel	19,00	14,00	134,00	134,00
leasing garage	EURO	Oberhavel	19,00	14,00	50,00	50,00
car tax	EURO	Oberhavel	7,00	14,00	50,00	50,00
other car costs	EURO	Oberhavel	19,00	14,00	25,00	25,00
advertisement, marketing	EURO	Oberhavel	19,00	14,00	554,00	554,00
gifts & others	EURO	Oberhavel	19,00	14,00	48,00	48,00
expenses for operation	EURO	Oberhavel	19,00	14,00	102,00	102,00
travel expenses ceo, managem.	EURO	Oberhavel	19,00	14,00	62,00	62,00
restaurants etc.	EURO	Oberhavel	19,00	14,00	3,00	3,00
travel expenses staff	EURO	Oberhavel	19,00	14,00	100,00	100,00
sales commissions, fix	EURO	Oberhavel	19,00	14,00	42,00	42,42
general repairs	EURO	Oberhavel	19,00	14,00	301,00	304,01
general maintenance, equipmt.	EURO	Oberhavel	19,00	14,00	88,00	88,88
other reparis	EURO	Oberhavel	19,00	14,00	2,00	2,02
rental leasing equipment	EURO	Oberhavel	19,00	14,00	74,00	74,00
leasing machine 1	EURO	Oberhavel	19,00	14,00	151,00	151,00
leasing machine 2	EURO	Oberhavel	19,00	14,00	195,00	195,00
leasing machine 3	EURO	Oberhavel	19,00	14,00	337,00	337,00
other expenses	EURO	Oberhavel	19,00	14,00	67,00	67,00
special bonusses	EURO	Oberhavel	19,00	14,00	263,00	263,00
external servives	EURO	Oberhavel	19,00	14,00	369,00	369,00
porto	EURO	Oberhavel	19,00	14,00	41,00	41,00
office material	EURO	Oberhavel	19,00	14,00	141,00	141,00
literature, others	EURO	Oberhavel	19,00	14,00	50,00	50,00
training expenses	EURO	Oberhavel	19,00	14,00	643,00	643,00
legal service	EURO	Oberhavel	19,00	14,00	10,00	10,00
accounting, external	EURO	Oberhavel	19,00	14,00	481,00	481,00
annual tax report	EURO	Oberhavel	19,00	14,00	144,00	144,00
others rents	EURO	Oberhavel	19,00	14,00	45,00	45,00
disposal	EURO	Oberhavel	19,00	14,00	1,00	1,00
banc accounts and others	EURO	Oberhavel	19,00	14,00	55,00	55,00
tools	EURO	Oberhavel	19,00	14,00	496,00	496,00
small tools	EURO	Oberhavel	19,00	14,00	113,00	113,00
interests grants	EURO	Oberhavel	19,00	14,00	154,00	154,00
other interests	EURO	Oberhavel	19,00	14,00	2,00	2,00

## **Purchasing real estate**

The real estate and rental prices in Germany are relatively low compared to other European countries. The maximum rental rate for business property in large German cities is, on average, less than half of the equivalent rate found in other European cities - in some cases it is even just a third.

However, there are considerable differences within Germany, and rents in eastern Germany tend to be lowest. Suitable business premises (for rental or purchase) can be easily found via ads in regional daily newspapers, online markets, or brokers. In addition, the Federal Property Administration (Bundesanstalt für Immobilienaufgaben) administers publicly owned properties for sale.

When planning the construction of a new building, the relevant municipality should be contacted for information on declared industrial land. In addition, investors should always contact the regional business development agency.

There is often negotiating room when purchasing real estate in Germany. Like everywhere else in the world, the decisive price factors include location, equipment, condition of the building, financing costs and any additional costs one might expect to incur.

Expert advice should be sought when purchasing real estate. Prior to purchase, it is advisable to seek the advice of a real estate appraiser, who can assess the value and condition of the property. The expert can also help ensure that complaints regarding possible faults in the building are filed before the statutory period expires.

Without an appraiser of this kind, the buyer can only claim damages or withdraw from the purchase in the event of serious building faults. In order to find an appraiser contact the Federal Chamber of German Engineers (Bundesingenieurkammer) or the Federal Chamber of German Architects (Bundesarchitektenkammer).

Banks are usually willing to negotiate financing terms, which means these terms tend to vary significantly from bank to bank. It is also worth comparing financing options on the internet. In some circumstances, the government-run Bank for Reconstruction (KfW) supports the purchase of land and buildings with special loan programs.

Costs over and above the purchase price incurred for real estate rental and purchase are:

### **Real Estate Agent's Commission Fee for Rental and Purchase**

If apartments or business premises are rented, the tenant usually pays the real estate agent's commission fee of between one and two months' rent. In the case of purchase, the person responsible for payment of the commission differs across Germany by region.

It is becoming increasingly common for the seller to pay part of the commission. The amount of commission varies from state to state, but the net amount is usually between five and six percent of the purchase price. However, the amount of commission to be paid is usually negotiable.

The buyer usually pays the appraisal fees, which enables the bank to determine the real estate loan value. The appraiser's fees are governed by the federal fee regulation for architects and engineers.

**Notary Fees in the Event of Purchase or New Building**

The notary certifies the purchase of real estate, authorizes the change of ownership in the land register, and, where appropriate, documents the debts recorded for the property (land charges).

The total notary fee is usually one percent of the purchase price and is determined according to the national cost regulation for notaries. For information about where to find a notary, please refer to the Federal Chamber of German Civil Law Notaries (Bundesnotarkammer).

**Fees for Court and Land Registry When Purchasing or Building**

The fees for deletion, entry, and change of ownership are around 0.3 percent of the property value plus value added tax (VAT).

**Surveyor’s Office Fees in the Event of New Building**

Every new building must be surveyed for inclusion in official maps. The costs of the surveyor are paid by the buyer. The total fee depends on the building costs and is regulated by the federal fee regulation for architects and engineers.

**Real Estate Transfer Tax (Grunderwerbsteuer) on Purchasing or Building**

When real estate is sold or otherwise changes ownership, a real estate transfer tax of 3.5 percent of the purchase price is levied. It tax always paid by the buyer and is not reimbursed upon selling.

**Example of Additional Costs for a EUR 100,000 Property**

An estimate of additional fees and charges for a EUR 100,000 building is shown in the example below:

Fee for	Percentage	Total
Agent’s commission (for developed or undeveloped land)	5-6 %	EUR 5,000 - 6,000
Appraisal costs		Approx. EUR 1,000 - 1,400
Surveyor’s office (if buildings have not yet been constructed)		Approx. EUR 3,000 - 5,300
Notary fees	1%	EUR 1,000
Court and land register	Approx. 0.3%	EUR 300
Real estate transfer tax	3.5%	EUR 3,500
<b>Total</b>		<b>Approx. EUR 13,800 - 17,500</b>

Source: Invest in Germany

**Costs of formation of a LLC**

As mentioned above, to set up a GmbH, a minimum share capital of EUR 25,000 is required. At the time of registration, however, it is sufficient for half of the minimum capital, i.e. EUR 12,500, to have been actually and verifiably contributed.

The estimated total costs for the formation of a standard GmbH are approximately EUR 750 to EUR 1,000, plus fees for legal counsel if a lawyer is employed to draw up the articles of association.

**6. Incentives, Financing (Finanzierungsfragen )**

Germany offers a wide range of investment incentives such as tax reduction, grants based on reduced interest rates, depreciation, education, training, assistance and others.



**Investment Incentives Package - Cash Incentives**

The main instrument to lower direct investment costs is cash incentives in form of direct grants. Additionally, eastern Germany offers investment allowance.

	<b>Investment Grants</b>	<b>Investment Allowance</b>
Offered in	Specific regions throughout Germany	Eastern Germany.
Offered as a	Cash payment calculated on the eligible project costs	Cash payment and/or tax reduction calculated on the eligible project costs
Eligible project costs are the	Purchase or production costs of buildings, machinery, and equipment and purchase cost of intangible assets <u>or</u> wage costs for 2 years	Purchase or production costs of buildings, machinery, and equipment
The target is	Job creation	Boosting investments in eastern Germany
Requirement	The investment project must create long-term jobs. The equipment subsidized through the grant must remain at the location for at least five years.	The equipment subsidized through the allowance must remain at the location for at least five years.
Important remark	The investment allowance is complementary to investment grants only in eastern Germany.	

The availability of investment grants and allowances must be checked for each project. Possible incentive levels and amounts must be calculated individually based on the project's data.

**Funds and Incentive Areas**

The federal government funds investment projects and supports employment in Germany in cooperation with the German states. A great deal of the funding comes from the European Union (EU), which supports regional economic development in the member states.

Germany will receive EUR 25.5 billion from 2007 to 2013 from the EU's two main financial instruments, the European Social Fund (ESF) and the European Regional Development Fund (ERDF).

## Areas

Public funding is allocated according to a region's level of economic development. The EU has defined two key target areas, which receive differing levels of support:

- \* Convergence Areas that require comprehensive support in order to bridge the gap with well developed regions in Europe

- \* Regional Competitiveness and Employment Areas that receive assistance to maintain and expand their economic competitiveness

Western Germany is defined as a Regional Competitiveness and Employment Area; eastern Germany is classified as a Convergence Area. Both areas are open to a wide variety of public financial support.

The map below presents an overview of European convergence and regional competitiveness areas.

The EU provides special funding for these areas in order to reduce inequalities between regions with higher and lower levels of economic development and to establish a strong, unified economic area that facilitates worldwide competitiveness.

## Rules

The EU has set up rules to control the allocation of its funding programs for investment projects. These rules apply to every member state of the EU, independent of the country's level of economic development and incentive area classification.

They are designed to assure equal competition between member states with differing levels of economic development.

## Cash Incentives for Investments

Investment projects can be subsidized with cash incentives. Investors can receive up to 50 percent of their recognized investment costs, allotted in the form of direct grants to reimburse proven expenditures.

Germany offered over EUR 2.3 billion in cash incentives for investments in 2007. A similar budget can be expected in 2008. Money is provided in part by the European Union (EU), and partly by the German federal government and the individual German states.

The investor's country of origin is not taken into consideration when determining eligibility for cash subsidies; the granted subsidy level depends on the industry and size of the investing company. The EU has set down certain criteria to define the size of a company:

### Definition of Company Size:

Enterprise Cat.	Headcount:	Ann. Work Unit (AWU)	Ann. Turnover	Ann. Bal Sheet Total
Medium-Sized Enterprises (ME)	< 250	≤ EUR 50 million	or	≤ EUR 43 million
Small Enterprises (SE)		< 50	≤ EUR 10 million	or ≤ EUR 10 million

All companies with totals exceeding these given amounts are classified as large enterprises (LE). Small and medium-sized enterprises linked with enterprises classified as large enterprises will also be classified as large enterprises.







### **Investment Allowances (Investitionszulage/IZ)**

A second program, designed especially for eastern Germany, offers support in the form of tax-free investment allowances (Investitionszulage). This program is based on the Investment Allowance Act of 2007 (Investitionszulagengesetz 2007). It is only available to companies planning to establish their businesses in eastern Germany.

Investment allowances cover the costs associated with production, construction of facilities, or purchasing machinery and equipment. They generally come in the form of tax credits, but can also be allotted as cash payments. With this program, up to 25 percent of the actual costs can be reimbursed. (In combination with investment grants received under the Joint Task Program, subsidies may not exceed the maximum percentage levels allowed by the EU.

Because this program is a special tool to support the eastern German regions, all equipment financed through the investment allowance must remain in eastern Germany for at least five years after the investment project is complete.

### **Loans**

To reduce investment costs, German development banks offer financial support to investors by providing loans at below-market interest rates, as well as subordinated loans that are similar to equity.

Such loans make it easier for investors to access additional funding.

In Germany, several publicly organized financial institutions that operate at the EU, national, and regional levels offer special loan programs.

### **Loan Programs of the European Investment Bank (EIB)**

On the European level, the European Investment Bank (EIB) finances investment projects in cooperation with private banks. The EIB provides loans below market value, offers long-term repayment periods, and other favorable conditions. It specializes in large investment projects.

To receive support, projects must be viable in four areas:

- \* Economics
- \* Technology
- \* Environment
- \* Finance

The EIB acts as a financial partner until the investment project is completed.

Loans are granted to projects in both the public and private sectors. Counterparties range from large to small and medium-sized enterprises (SME). As a rule, the EIB lends up to 50 percent of the investment costs of a project.

The main financing facilities are intermediated loans. Credit lines to banks and financial institutions help them to provide finance to small and medium-sized companies with eligible investment programs or projects costing less than EUR 25 million.

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### **Loan Programs of Germany's Bank for Reconstruction (KfW)**

At the national level, the German Bank for Reconstruction (KfW) fosters investments with a variety of loan programs that are especially tailored for start-ups and SME. Application is made at the investor's primary banking institution in Germany (Hausbank).

The bank's two most important loan and capital programs are:

#### **(1.1.) Entrepreneur Loan (Unternehmerkredit)**

- \* Available to companies of all sizes (if the company is mainly privately owned and has a turnover less than EUR 500 million)
- \* Maximum loan amount is EUR 10 million
- \* Available to finance property, buildings, machines, facilities, equipment, and construction projects
- \* Financing share is 100 percent of the eligible expenses
- \* Interest rates below market conditions, fixed for 10 years with a redemption-free grace period of up to 3 years
- \* May be combined with other KfW-programs and additional public funding

#### **(2.2.) Entrepreneur Capital (ERP-Unternehmerkapital)**

- \* Is offered mainly to start-ups and young companies as a subordinated loan
- \* Maximum loan amount is EUR 500,000
- \* Financing is available for property and buildings as well as fixtures, fittings, and tools for facilities
- \* Subordinate capital may not exceed 40 percent of company assets
- \* A loan with a 15 year term has a fixed interest rate for the first 10 years
- \* Capital is available in full for 7 years before repayment begins
- \* For small and young companies interest rates are subsidized out of the ERP Special Fund
- \* For start-ups, loans are combinable with other types of public funding

### **Loan Programs of State Development Banks**

At the level of Germany's states, most development banks have their own loan programs based on the **KfW Entrepreneur** Loan Program, with interest rates below market conditions.

Most state development banks offer additionally reduced interest rates below rates depending on criteria such as location, company size, or technological focus. They are targeted especially at SME investing in a particular state.

The maximum credit amount varies from EUR 750,000 up to EUR 10 million. Financing is generally available for property, buildings, machines, plants, and equipment.

Application is made through the investor's primary banking institution in Germany (Hausbank) to the respective state development bank. Reduced-interest loans can usually be combined with other public funding.

## **Labor-Related Incentives**

Apart from investment incentives for capital expenditure, labor-related incentives can play a significant role in the operational cost structure of a new business. There are several types of labor-related incentive programs available that correspond with the different stages of a company's human resource needs. They include recruitment and training support, as well as wage subsidies.

### **Time Frame for Labor Related Incentives**

General programs are run by the Federal Employment Agency in cooperation with the German states. Many labor-related incentives are co-financed through EU structural funds, which define the objectives of these programs.

### **Recruitment Support**

Newly founded companies must naturally hire new employees. In Germany, companies are supported by more than 800 local employment agencies. Regardless of the qualification level required for the offered position, the agencies can support companies in finding new personnel. Recruitment support ranges from pre-selecting applicants to managing assessment centers. These services are free of charge.

### **Pre-Hiring Training**

Before investors formally hire new personnel, the future employees often need to participate in qualifying training measures. Usually these qualifying programs are organized by the local employment agency in close cooperation with the investor.

However, the program can also be organized and run by specialized external institutions. Up to 80 percent of the eligible costs of these training programs can be covered by regional program managing authorities. In this context, the employment agency fully pays all labor and training costs.

### **Wage Subsidies**

There are wage subsidies specifically aimed at integrating the long-term unemployed and the unemployed under the age of 25 into the workforce. Employers can be granted a direct cash payment, which is paid as a proportion of the worker's wage. The grant can cover up to 50 percent of wages, including social benefits, for up to twelve months from the time of hiring.

If disabled or elderly persons are employed, the grant amount can reach a maximum of 70 percent of wage costs. In return, investors have to grant long-term employment contracts.

### **On-The-Job-Training**

There are a variety of on-the-job training programs available. Companies can be supported with subsidies which cover up to 50 percent of all training costs. Small companies can even obtain financial support covering up to 80 percent of these costs. EU notification is required if the granted sum exceeds EUR 1 million for a single company.

## **Intellectual Property Issues**

Trademarks and patents enjoy strong protection in Germany. If you plan to establish a company in Germany, you should ensure that your company and/or your products do not infringe on older and therefore prior intellectual property rights that have already been established on the German market. Conversely, you should remember to protect your company's intellectual property by means of registration.

Even if you would have registered your own trademark since years and distributed your products successfully: Check in detail whether a similar trademark was registered in Europe.

### **Internet Domain- Company Name – Branding**

"German" internet domains are granted according international standards by a NIC-Agency. "Priority registration" is the fundamental principle of protection. "Domain Grabbing": Cities and other public institutions, state organizations or corporations of international standing, among some others are protected by national and international regulations. But: "Priority" means "priority" in any other sector.

### **Patents**

Patents are granted for technical inventions which are new, involve an inventive step, and are industrially applicable. The duration of a patent is 20 years, beginning on the day following the patent application for the invention.

Under German patent law, patents are granted by ruling of the German Patent and Trade Mark Office (Deutsches Patent und Markenamt, DPMA). In order to apply for registration, the applicant must file an application giving certain information and pay a fee. For details please refer to the DPMA's Information for Patent Applicants fact sheet (in German only).

Foreigners may register patents on exactly the same terms as German nationals. However, applicants having neither a domicile nor an establishment in Germany must appoint a patent attorney in Germany as representative for filing the patent application.

European Patents are granted under the European Patent Convention (EPC). The European and the national patent-granting procedure exist in parallel, when seeking patent protection in one or more EPC contracting states, the applicant has a choice between following the national procedure in each individual state or taking the European route, which confers protection in the contracting states that you designate as part of a single procedure.

European Patents, once granted, become a bundle of nationally enforceable patents in the designated states. For a step-by-step guide on the granting procedure for European patents, please refer to the website of the European Patent Organization.

### **Trade Marks**

A trademark is a name, a company name, a term, a logo, or a combination of these, which identifies a company, its goods, or its services. Marks of this kind that are associated with a specific manufacturer/supplier may take the form of symbols, words, illustrations, audio signatures, color designs, packaging, etc.

Additionally, a company or a product name that has acquired a secondary meaning as a trademark due to its independent value can also be eligible for trademark protection.

