

German Overview

2019 Individual Income and Social Taxes

Gaining an understanding of the tax system in a new country is a critical step in addressing risks and reducing costs for companies with mobile employees. This overview summarizes key individual income and social tax compliance and tax planning considerations for companies sending employees to work in Germany.

Individual income tax overview

A resident of Germany is subject to German income tax on worldwide income at graduated tax rates (linear progression) that range from approximately 14% to 45% of taxable income. A 5.5% solidarity surcharge tax applies in addition to the normal income tax. A church tax of 8% or 9% can also apply to German tax residents who are members of a registered church in Germany.

A non-resident of Germany is subject to income tax on German source income at the tax rates that apply to resident taxpayers. In limited situations, a non-resident may elect to be taxed as a resident taxpayer.

Residency

A person is generally a resident of Germany if the person is *domiciled* or they have a *habitual abode* in Germany. Tax domicile is considered the taxpayer's permanent home. If a person has more than one residence, then tax domicile is considered the place where the taxpayer's family lives. A habitual abode is established when the individual is physically present in Germany for an uninterrupted period of more than six months and does not maintain a permanent home in Germany. Brief absences during the six-month period are ignored.

Tax filings

Tax Year: Calendar year.

Due Date: July 31 of the following year, with automatic extensions to February 28 of the second following year with assistance from a tax advisor.

Joint/Separate Returns: Spouses may file jointly or separately, whichever is more favorable.

Tax Payments: Quarterly estimated tax payments may be required for income not subject to income tax withholding.

Planning ideas and common tax issues

1. Timing of transfer may help reduce Germany taxation (tax treaties must be consulted).
2. Accelerating or deferring income to non-resident periods may reduce tax.
3. Capital gains may be subject to tax at special tax rates or might not be subject to tax.
4. Certain allowances and reimbursements may be fully or partially excluded from taxable income such as moving expense reimbursements, duplicate housing costs, and limited per diems. Upon filing a return, certain amounts paid for school fees and childcare expenses are deductible.



5. Stock options are generally taxable at exercise, but favorable tax rates may apply.
6. There is a basic tax-free allowance of EUR 9,168 for single individuals (EUR 18,336 for married couples filing a joint return). Non-resident filers are not eligible.

Income tax treaties

Germany has income tax treaties with many countries including the US. Business travelers from the US may be exempt from German income taxation if all of the following conditions are met:

- The employee does not exceed the aggregate 183 days in the calendar year;
- The compensation is not paid by, or on behalf of, an employer who is a resident of Germany;
- The compensation expense (including all benefits, such as hotel and meals) is borne by the US entity and is not borne by a permanent establishment (e.g., fixed place of business or deemed place of business due to employee presence or activities) in Germany.

If the US company is the legal employer, but the German company bears responsibility and risk for the employee's work, care should be taken in applying the above conditions as the German company could be considered the "economic employer," thereby negating the treaty exemption.

Social taxes

Individuals working in Germany may be subject to social security taxation for old-age/pension, unemployment insurance, health insurance, nursing care insurance, accident insurance (employer paid), and insolvency fund contributions (employer paid). The following 2019 rates apply for employer and employee paid insurance:

- **Old-age pension:** 9.3% for both employer and employee on annual income up to EUR 80,400
- **Unemployment:** 1.25% for both employer and employee on annual income up to EUR 80,400
- **Health:** 7.75% for both employer and employee on annual income up to EUR 54,450
- **Nursing care:** 1.525% for both employer and employee on annual income up to EUR 54,450, plus an additional contribution of 0.25% for employees over 23 years of age, without children.

Germany has social security agreements with the EU and a number of countries including the US. These agreements may exempt an expatriate and their employer from all or part of the German social taxes depending on the treaty. Note that the employee's contribution for the pension portion of the social taxes may be refunded to the individual after a two-year waiting period if they have contributed for less than five years.

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GTN specializes in mobility tax services. To learn how we can help you better understand these rules, or if you have additional questions, please contact us at info@gtn.com or +1.888.486.2695.

This overview is based upon tax law in effect as of January 1, 2019. The information provided is for general guidance only and is subject to change. This information should not be utilized in lieu of obtaining professional tax and/or legal advice.