

# SETTING UP BUSINESS IN AUSTRIA



## General Aspects

Austria is a country in south central Europe with borders to eight other countries. It covers a surface of 83,871 km<sup>2</sup> of which two thirds are alpine terrain. The total population is around 8.3 million people. The official language is German. As Austria is part of euro-zone its monetary unit is the Euro.

## Legal Forms of Business Entities

Legal form	Feature	Remarks
<b>Branch Office</b>	<p>An extension of a non-Austrian parent company. Has no legal personality, but is part of the legal entity of the foreign company. All responsibilities for any liabilities in Austria lies with the foreign company.</p> <p>The branch office has to be entered into the commercial register. Depending on the characteristics of the branch the consent of the Federal Ministry of Economic Affairs may be required.</p>	Uncommon form of business in Austria, because there are many founding and operating restrictions to be considered.
<b>Sole Proprietorship</b>	Set up by a single natural person, who is fully and personally liable for the debts of the company.	Suitable for small businesses and start-ups. No special formalities required.
<b>Partnerships</b>	Partnerships require at least two partners with a personal commitment. Their liability for the partnership's debts and liabilities is generally unlimited and personal.	No minimum share capital is required and the accounting and publication obligations are less extensive than those for corporations.

There are the following partnerships in Austrian law:

<b>Civil Law Partnership</b> (Gesellschaft bürgerlichen Rechts – GesbR)	An association of individuals or enterprises united in the achievement of a joint contractual purpose.	<p>Suitable for small or new companies. A written agreement is not necessary but recommended.</p> <p>Since 01.01.2015 there are some provisions of law which are applicable to this form of partnership. Nevertheless agreements made by the partners go first.</p>
<b>General Commercial Partnership</b> (offene Gesellschaft – OG)	An association of at least 2 individuals both of them fully liable for debts with their private assets. The company must be entered in the commercial register (Firmenbuch).	The classic company form for small and medium-sized business.

<b>Limited Partnership</b> (Kommanditgesellschaft – KG)	A legal form related to the OG, but with the option of limiting the liability of some of the partners. The general partner is personally liable without limitation, as well as with his private assets. The liability of the limited partners is limited to their respective share of the partnership capital.	Suitable for medium-sized companies seeking additional start-up capital from persons who prefer a limitation of liability.
<b>Corporations</b> (Kapitalgesellschaften)	Independent legal entity, meaning that the holder of rights and obligations is not the individual shareholder, but the company itself. Shareholders are liable for company's debts to the amount of their capital share, only.	

There are the following corporations in Austrian law:

<b>Private Limited Company</b> (Gesellschaft mit beschränkter Haftung – GmbH)	In order to obtain legal personality the GmbH must be entered into the commercial register. It has to be formed by one or more persons, who may be individuals or legal entities, resident or non-resident, with a minimum share capital of EUR 35,000. It is possible to have a share capital of 10.000 € for the first 10 years.	The most popular legal form of business in Austria, with high flexibility and relatively few obligations.  Half of the minimum share capital has to be paid on a bank account of the GmbH before it can be entered in the commercial register
<b>Public Limited Company</b> (Aktiengesellschaft – AG)	The AG comes into existence upon registration in the commercial register. The minimum share capital of an AG is EUR 70,000.	The organizational and accounting obligations and the publication requirements are very extensive.
<b>Private limited Company and Partnership</b> (GmbH & Co KG)	At least one partner, the general partner, has to be liable for debts and liabilities of the company without limitation. But this fully liable partner may also be a corporation with limited liability. The GmbH & Co KG may have an unlimited number of capital investors (limited shareholders), whose liability is limited on the capital contribution they subscribed.	The GmbH & Co KG combines structures of a Public Limited Company and a limited partnership (KG). It has the same accounting obligations as the private limited company.
<b>Austrian Private Foundation</b>	The Austrian Private Foundation is created through the contribution of assets and has to be registered in the commercial register.	Principally the contribution of assets cause tax of 2,5 % based on the value of the assets. The foundation is subject to a favourable tax regime, but in the last few years peculiar favours have been reduced.

# Organizational Questions

Topic	Feature	Remarks
<b>Commercial Register</b> (Firmenbuch)	Companies of all legal forms must be entered in the commercial register.	A company may not enter into any transactions until it has legal identity.
<b>Trade/business licence</b> (Gewerbeschein)	Some activities that are conducted on a regular basis, and with the intent of achieving profits requires a trade/business licence. The trade/business licence is issued to the company itself. Depending on the kind of business the company will only receive it if a trade manager is appointed.	There are certain trades where no proof of specific qualification is required (Freie Gewerbe).
<b>Bank Account</b>	To open a bank account individuals need a valid passport and a confirmation from the local Public Office that Austria is the current place of residence. Companies need an excerpt from the commercial register and a taxpayer ID number.	During tax audits all your bank accounts may be checked. In particular situations the accounts of relatives may be checked, too.
<b>Transfer of Goods and Machinery</b>	Within the EU goods and machinery can circulate freely. Imports from non-EU states to Austria cause customs duties. Substantial shareholdings, businesses and business assets are covered by exit tax which is not assessed if it is an exit to an EU or EEA-Member State and exchange of information with that State is ensured.	
<b>Transfer of Capital</b>	Capital can be moved in and out of Austria without any restrictions.	Every transaction of money more than € 50.000,- has to be reported to the tax authority by the Austrian banking institution.
<b>Visa and Residence permit</b>	For non-EEA nationals who want to stay in Austria for more than 6 months a residence certificate (Aufenthaltstitel), i.e. a residence permit of unlimited duration, entitles the holder to work in Austria without a work permit.	In the time of setting up business a Schengen Travel Visa may be sufficient, which enables its holder to stay in Austria for up to 3 months per half year. For a longer stay a residence permit is needed.
<b>Registration law of beneficial owners</b>	Since 15.01.2018 the registration law is set into force. This law shall prevent money laundry and financing of terrorism.	Any legal body that is registered in the commercial register is obliged to report on a yearly basis its economic owners which may differ from the legal owners. If the legal entity does wilfully not report its economic owners penalties of EUR 200.000,- will be imposed.



# Employment

Topic	Feature	Remarks
<p><b>Work permit</b></p>	<p>Non-EEA nationals, planning to work in Austria for less than 6 months need a Visa and a work permit before entry into Austria.</p> <p>Non-EEA nationals, planning to work in Austria for longer than 6 months, are required to obtain a residence and a work permit prior to the start of employment. There are different possibilities of permits for which varying requirements have to be met. There are for example job-seeker-visa, Rot-Weiß-Rot-Card, Rot-Weiß-Rot-plus-Card, Blue card EU and so on.</p> <p>A certificate of exemption can be issued to employees who have spent at least five years of the last eight years of employment in Austria or to employees who have been married to an Austrian citizen for the last five years and have their residence in Austria.</p>	<p>The "Rot-Weiß-Rot-Card" enables to work in Austria for 24 months for a specific employer. "Rot-Weiß-Rot-plus-Card" enables to work for any employer for one year, up to three years if you meet certain requirements.</p>
<p><b>Labour law</b></p>	<p>Minimum wages are not provided for by law, but by collective bargaining agreements (Kollektivverträge - KV). All employees are entitled to paid holiday of at least five weeks a year.</p> <p>Regular working time is 40 hours a week. It may not exceed 10 hours a day or 50 hours a week. Nevertheless additional working hours may be allowed by a company agreement. Overtime has to be paid at the normal rate plus at least 50%.</p> <p>Employees receive full sick pay for six to eight weeks and additional half sick payment for another four weeks. Thereafter social insurance benefits are received.</p>	
<p><b>Social system</b></p>	<p>Austria operates a compulsory social security scheme for all employees, which covers mainly: health, accident, pension and unemployment insurance. Basically the contribution amounts to 18,12 % for the employee and 21,48 % for the employer of the gross salary. So the total social contribution amount is 39,60 % of the gross salary.</p>	<p>Austria has concluded social security treaties with many countries which allows expatriates to remain under their native country's scheme for a limited period.</p>

# Taxation

Topic	Feature	Remarks
<b>Corporate Income Tax</b> (Körperschaftsteuer)	<p>The standard corporate income tax rate is 25% on all taxable earnings.</p> <p>The corporation is obliged to pay annual minimum income tax (AG: EUR 3,500, GmbH: EUR 1,750) even if making losses.</p>	Reduced amount of minimum income tax for newly established companies for five years. Possibility to carry forward the minimum income tax.
<b>Group taxation</b>	Group taxation ensures that profits and losses of parent companies and subsidiaries are offset against each other. The group leader combines the results of the group members. This combined result is going to be taxed. For losses, the group relief operates across borders and is also applicable to non-resident first tier subsidiaries. Since 1.3.2014 companies based in EU or countries which provide full administrative assistance may be group members only.	<p>The conditions to form a group are a direct or indirect majority investment in a corporation and the group must exist for at least three years.</p> <p>Formation of a group does neither require economical or organizational integration nor a domination contract.</p>
<b>Personal Income Tax</b> (Einkommenssteuer)	The tax rate in Austria rises progressively and contains 6 levels. The first rate starts at 25 % for income exceeding the tax-free allowance of € 11.000. For income exceeding € 90.000 the tax rate of 50 % is applicable. Income exceeding € 1.000.000 is taxed by 55 %. This new maximum tax rate is limited to 5 years (starting 2016).	There is no joint taxation of married couples or households.
<b>Value Added Tax (VAT)</b> (Umsatzsteuer)	The normal VAT rate is 20 %. Since 1.1.2016 there are two lower rates of 10 % and 13 %. 13 % is for example for hotel accommodation and similar services (from 1.5.2016), artist activities, operation of swimming pools, theatres, music and singing performances, museums, films and circuses.	<p>Non-residents that make taxable supplies of goods or services in Austria are required to register for VAT.</p> <p>Generally there is no input tax deduction for passenger cars and estate cars. Since 2016 input tax deduction for entrepreneurs is possible for cars which are entirely electrically or electrohydraulically driven.</p>
<b>Taxation in case of partnerships</b>	Partnerships are no separate legal entities but associations of partners. Thus, for the income tax the partners themselves are subject to personal income tax, with the individual tax rate applicable to each shareholder.	
<b>Compensation Tax</b> (Abgeltungssteuer)	Capital interests and dividends are subject to compensation tax with a flat tax rate of 27,5%.	
<b>Capital income</b>	The regulation for capital income distinguishes 3 types of capital income: income out of allocation of capital, increase in value and derivatives. Generally a flat tax rate of 27,5 % for all capital income is applicable, except for interest received for loans/deposits at banking institutes the rate of 25 % is applicable.	Non-securitised derivatives are taxed by the general progressive tax rate for personal income.

<b>Income of real estate sale</b>	Income of private sale of real estate is taxed by a flat tax rate of 30 %.	
<b>Real Estate Transfer Tax</b> (Grunderwerbsteuer)	When domestic real estate changes owner, a one-time real estate transfer tax of 3,5 % has to be paid of the purchase price. The tax rate for gratuitously transferred real estate is for the first € 250.000,- 0,5 %, for the next € 150.000,- 2 % and after that 3,5 %. For determining the applicable tax rate all purchases within 5 years between the same persons have to be added up. If there is no economic consideration tax is calculated by a special procedure.	
<b>Real Property Tax</b> (Grundsteuer)	Municipalities levy annual real estate taxes of up to 1% of the assessed property value which usually is much lower than the real value of the real estate.	
<b>Non-resident Taxation</b>	<p>Non-resident individuals and companies receiving Austrian-sourced income are subject to Austrian limited taxation. Double taxation of this income is avoided through double taxation agreements between Austria and the related countries. In general, the agreements limit the taxation of industrial and commercial activities to the profits attributable to a permanent establishment in Austria.</p> <p>For expatriates there is a simplified consideration of certain expenses. 20 % of the taxable income but a maximum of EUR 10.000,- per year may be deducted as a lump sum. If expenses exceed these figures, an income tax declaration should be filed to the tax authorities.</p>	<p>Limited tax liability</p> <p><b>individuals:</b> neither residence (any place of disposal) nor habitual place of abode in Austria (exceptions for EU or EEA-nationals)</p> <p><b>corporations:</b> neither seat nor place of management in Austria</p> <p><b>partnerships:</b> status of foreign partnerships (transparent or opaque) is determined based on the main features of Austrian entities, no "check-the-box"-regime.</p>
<b>Inheritance and gift tax</b>	There is no inheritance or gift tax. For gifts exceeding EUR 50.000,- p.a. between family members and EUR 15.000,- within 5 years between third parties a declaration has to be filed. By not filing the declaration high penalties are imposed.	As mentioned before transfer of real estate within the family and without money transfer is going to be taxed by 0,5 – 3,5 %. The value of the real estate is calculated by a special regime.

# Hubner & Allitsch

Wirtschaftstreuhänder

*This guide has been prepared  
by HUBNER & ALLITSCH, an  
independent member of Antea*

## Hubner & Allitsch

Leonhardstraße 104

A - 8010 Graz, Austria

Tel.: + 43 316 338 338

steuerberatung@hubner-allitsch.at

www.hubner-allitsch.at

## Antea members in Austria:

### GRAZ

Contact partner: Gerhard Hubner

Tel.: + 43 316 338 338

Mail: gerhard.hubner@hubner-allitsch.at

Web: www.hubner-allitsch.at

### SALZBURG

Contact partner: Caroline Cziharz

Tel.: +43 (662) 646668 0

Mail: c.cziharz@quintax.at

Web: www.quintax.at



Alliance of  
independent firms

Mallorca, 260 àtic  
08008 – Barcelona  
Tel.: + 34 93 215 59 89  
Fax: + 34 93 487 28 76  
Email: info@antea-int.com  
www.antea-int.com

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