GSK Newsletter

Taxation of Cross-Border Transactions in Germany

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Taxation of Cross-Border Transactions in Germany

An introduction to the salient issues for foreign businesses.

This newsletter shall provide a first introduction to the taxation issues a foreign business considering to expand its activities to Germany will have to take into account. It is not a comprehensive guide to the German business tax system and is no substitute for professional advice on a case-by-case basis.

There are a number of ways how a foreign entity or private individual can pursue business activities in Germany. First, you can become active without creating a physical presence in Germany simply by supplying goods and services to German clients from abroad. Second, the foreign business might establish a fixed place in Germany from which it pursues its German activities. Third, the foreign business might set up a German subsidiary either as a partnership or as a corporation. Last but not least, Collective Investment Schemes, whose taxation regime has been extensively reorganized recently, might also be an interesting alternative for foreign investors. Which route to follow will mainly depend on the kind and the size of the business activities to be carried out in Germany or with German clients as well as on tax considerations that will have an impact on the decisions to be made.

I. The German Tax System for Business Operations in general

1. Personal and Corporate Income Tax

Under German tax law, businesses are taxed on their taxable income. The taxable income in principle is determined by the German tax accounts of the business, which no longer necessarily correspond to the German GAAP accounts since the so called authoritative principle (*Grundsatz der Maßgeblichkeit*) has been softened to a considerable extent as of 2010. Small sized businesses and independent professionals may also establish their taxable income on the basis of a cash accounting method. Corporate entities are subject to corporate income tax (*Körperschaft-steuer*, **CIT**), which currently is levied at a rate of 15% plus a solidarity surcharge of 5.5% thereon (total 15.825%).

Private individuals are subject to personal income tax (*Einkommensteuer*, **PIT**), which (from the fiscal year 2014 on) is levied at progressing rates from 14% (for an annual income of a single person exceeding € 8,354 / married couples € 16,708) to 45% applicable to income exceeding € 250,731 (€ 501,462) p.a. The solidarity surcharge will also increase the PIT charge. In addition, private individuals are subject to church tax in case they belong to a recognized religious community.

Partnerships are transparent for CIT and PIT purposes, i.e., they are neither subject to CIT or PIT, but the partnership's income is allocated to the partners and taxed at this level.

2. Trade Tax

Besides CIT and PIT, Germany levies trade tax (*Gewerbesteuer*, **TT**), a second tax on business income, which is raised by the municipality in which an entity, partnership or private individual maintains a fixed place of business. The tax rate is determined by the municipality; it ranges from 7% to approx. 17.5% in the big cities. Businesses with several fixed places of business in various municipalities will be subject to trade tax in all municipalities, in which case the taxable income will in general be split between the municipalities in accordance to the ratio of wages paid to the employees. For TT purposes the taxable income in principle is determined on the basis of the tax accounts of the tax payer (or partnership). For trade tax purposes the income is subject to certain adjustments. In particular there is an add-back of certain financing expenses (including interest, lease and rent payments, royalties, etc.), which will increase the income subject to TT. Consequently, for many businesses the TT charge might be considerably higher than the CIT or PIT charge due to the add-back of certain expenses even though the applicable TT rate might be lower than the CIT rate.

Certain expense items are not deductible for tax purposes, such as gifts as well as hospitality and entertainment expenses exceeding a certain threshold amount. Penalties, bribe money, CIT, PIT and TT are not tax deductible, either.

3. Dividend Income and Capital Gains

Dividend income is 95% tax exempt for corporations holding a share in another corporation. However, since March 2013 this exemption will only be granted if the shareholder holds at least 10% of the shares in the corporation. This minimum shareholding requirement must be fulfilled at the beginning of the calendar the dividend relates to; for acquisitions retroactivity may be reached.

Private individuals holding shares in a (domestic or foreign) corporation in the context of their own business operation benefit from a 40% tax exemption. The same applies to capital gains derived from the disposal of shares in corporations.

The flip side of the tax exemption is the excluded or limited deductibility of losses derived from a participation, including losses from shareholder loans.

A special regime applies to banks, insurance companies and other financial institutions, including certain holding companies that are taxed on capital gains and dividend income but may deduct losses incurred in relation to the holding of shares.

4. Deduction of Interest Expenses

The deduction of interest for CIT/PIT and TT purposes is limited by the interest barrier rule (*Zinsschranke*) to the amount of interest income plus 30% of the relevant business's taxable EBITDA. This does not apply if the net interest expenses, i.e., the amount of interest expenses that exceeds the interest income is less than EUR 3,000,000 p.a.

Further exemptions to the interest barrier rules are the “stand-alone-clause” and the “escape-clause”. The stand-alone-clause applies in case the relevant corporation does not belong to a group of companies within the meaning of German GAAP, the GAAP of another EU member state or of IFRS, whichever may be applicable to the business. The escape-clause applies if the business belongs to a group of companies within the meaning of German GAAP, of GAAP of another EU member state or of IFRS, whichever is applicable, and if its debt-to-asset-ratio according to the applicable national EU-GAAP or to IFRS does not fall short of the entire group of companies’ debt-to-asset-ratio by 2 % or more. Only in rare cases can US GAAP be taken into account for both exemptions. Neither the stand-alone-clause nor the escape-clause applies if a harmful shareholder financing (including third-party financing with recourse against a qualifying shareholder or its affiliates) as defined in the relevant provisions has been granted.

Interest that cannot be deducted under the interest barrier rules will be carried forward to subsequent years and can be deducted then, albeit subject to the interest barrier rules. The interest carried forward by the borrower can be lost partly or completely if shares in the borrower are directly or indirectly transferred. In this respect, the same rules as for losses carried forward apply as explained below.

In case the deductible interest expenses do not reach the maximum amount of 30% of the EBITDA, the remaining amount of the EBITDA can be carried forward for the next five years. Such EBITDA carried forward would be subject to forfeiture in case of a reorganization (but would survive a change of ownership in a corporation).

The interest barrier regime also applies to partnerships and foreign businesses that have established a fixed place of business in Germany.

A German consolidated tax group (*Organschaft*) that comprises several corporate entities qualifies as a single business for the purposes of the interest barrier rule (for further details on consolidated tax groups please cf. below).

Please note that interest that can be deducted according to the interest barrier rule will still be subject to the add-back provisions of the TT regime.

5. Loss Carry-Forward

For CIT and for PIT purposes (but not for TT), taxpayers are entitled but not required to benefit from a loss carry-back of € 1,000,000 p.a. to the previous year.

However, to the extent that losses have not been carried back to the previous tax period, they can be carried forward to future tax periods (with no restrictions as to amounts or the term of the loss carried forward) and will be deducted in subsequent tax periods for CIT, for PIT and for TT purposes, albeit subject to a minimum taxation rule (deduction of losses carried forward in an amount of up to € 1,000,000 (married couples € 2,000,000) plus 60% of the earnings that exceed € 1,000,000 (€ 2,000,000 resp.)). As a consequence thereof, at least 40% of the taxpayer’s income that exceeds € 1,000,000 is subject to German CIT or PIT and TT, if applicable, irrespective of any exceeding losses carried forward. Any losses carried forward that could not be deducted in a tax period are carried forward to the following tax periods.

In order to avoid abusive structures and trans-actions, losses carried forward by a corporation are forfeited partly or completely if and to the extent the shares in the corporation are transferred. In detail, the losses carried forward are completely forfeited if more than 50% of the shares are transferred within five years. If more than 25% but no more than 50% of the shares are transferred within five years, the losses carried forward are lost proportionally. The scope of application of the rule is very broad in order to cover any attempts of abusive structures. At the end of the day, most transactions that are economically equivalent to a share transfer are covered by these rules.

An exemption from the rules on the forfeiture of losses carried forward applies if and to the extent the corporation holds built-in capital gains (hidden reserves) in Germany. The second statutory exemption regarding share transfers connected to a recapitalization is currently not applicable as the EU-conformity of this rule is challenged by the German Federal Fiscal Court.

In reorganizations (mergers, spin-offs, de-mergers) losses will in principle be completely or partially forfeited (but there is a chance to rescue losses in a drop-down reorganization).

A loss carried forward for TT purposes at the level of a partnership will likewise be forfeited to the extent the interest in the partnership is transferred.

6. Filing Requirements

Tax returns (for CIT, PIT and TT) need to be filed annually. The filing deadline is May 31 of the following year but usually can be extended until the end of this year (Businesses typically are subject to the extended deadline if they appoint a tax adviser to prepare the returns.). German tax authorities may impose late filing penalties and late payment interest. Typically pre-payments for CIT, PIT and TT are required during the year on the basis of an estimated taxable income.

German businesses are subject to tax field-audits on a regular basis depending on the size of the business. Until the tax field-audit, tax assessments typically are subject to change.

In principle the books and accounts of a German entity, partnership or permanent establishment need to be kept in Germany for a period of usually 10 years.

7. Value Added Tax

Business operations are also subject to Value Added Tax (**VAT**) for all goods and services supplied in Germany according to specific rules on the place of the supply (N.B., holding companies might not be taxable persons for VAT purposes.). The VAT rate currently is 19% in Germany (7% for specific services). Certain services are exempt from VAT (e.g., services in the banking industry). VAT is included in the invoice issued for the supplies and needs to be paid by the recipient. Services supplied by a business not resident in Germany may be subject to German VAT in case the place of supply is deemed to be in Germany under the VAT rules (reverse charge system). This applies irrespective of whether the supply is made from an EU member state or from outside the EU.

The VAT regime is based on directives of the EU and essentially is the same in all member states, but tax rates may differ.

The amount of VAT is to be paid to the local tax office. VAT charged for supplies received by a business will be refunded to the business or credited against the VAT payable provided the business itself renders taxable services. So, in principle VAT should not become a definitive cost for those businesses that provide taxable supplies to their customers (however, businesses providing tax-exempt services will not be able to recover the input VAT on services received for such tax-exempt output services; holding companies which do not qualify as taxable persons for VAT purposes in principle are not entitled to a VAT refund either.).

Taxable persons need to file preliminary VAT returns monthly or quarterly (depending on the business's turnover) and annual tax returns.

Businesses which are importing goods to Germany from outside the European Union might additionally face customs duties.

8. Real Estate Transfer Tax

The sale or transfer of real estate is subject to Real Estate Transfer Tax (**RETT**). As the German federal states have been entitled in 2006 to fix the tax rates applicable on property located in their respective territory, a certain tax rate competition has taken place in the recent years. Rates differ in a range from 3.5% (e.g. Bavaria) up to 6.5% (e.g. Schleswig-Holstein from 2014). The taxable base is the consideration paid for the real estate or, in the absence of a consideration for the real estate, its tax value.

Moreover, the RETT regime contains a number of complex anti-avoidance provisions regarding corporate real estate transactions that need to be taken into account when such a transaction is structured.

In case of a partnership, RETT will also be triggered if within five years at least 95% of the partnership interest directly or indirectly is transferred to new partners.

The transfer of shares or interest in corporations or partnerships owning real estate is not subject to RETT as long as only less than 95% of the interest or shares are directly or indirectly transferred to a new quota holder (or a qualifying group of quota holders). Yet, following a recent statutory amendment RETT may also be triggered if an entity not legally, but economically holds at least 95 per cent in a company whose assets include domestic property. The economic participation results from the sum of the direct and indirect interests in the capital of the company. For the calculation of indirect holdings, the percentages are multiplied.

Certain intra-group reorganizations are not subject to RETT from 2010. In order to achieve this exemption, it is generally speaking necessary that the restructuring is accomplished by means of certain business transactions (e.g. mergers acc. to the German Reorganization Act).

Additionally the involved entities must be either (i) one dominating entrepreneur and one or more dependent entities or (ii) several dependent entities which are dominated by one dominating entrepreneur. An entity is dependent if the dominating entrepreneur directly or indirectly holds a participation of at least 95% in the dependent entity continuously in a 5-year period before and after the restructuring.

Apart from that also special tax exemptions for partnerships should be taken into account. Neither lease or rent agreements nor the provision of land charges are subject to RETT.

9. No Stamp Duties

Up to now, neither stamp duties nor capital transfer taxes are levied in Germany. Yet, the introducing of a financial transaction tax on an EU-wide or at least on a national German basis is still on the agenda.

II. Doing Business in Germany without a Fixed Place of Business

Under German domestic tax law, a foreign entity or private individual that is not resident for tax purposes in Germany will only be liable to German non-resident taxation

- if its activities in Germany classify as a trade or business and are carried out via a permanent establishment, or by a permanent representative of the non-resident principal or
- if specific items of the non-resident person's income classify as German source income within the meaning of German domestic tax law provided no double-taxation treaty prevents Germany from taxing the income.

Businesses that supply goods and services to German customers without creating a permanent establishment will especially be subject to German income taxation in case they provide licenses for the use of know-how including the use of software (that is not standard software) or in case they are performing or using certain activities in Germany (i.e., performing artists). In this case the customer is obliged to make a tax withholding of 15% from the consideration although an applicable double-taxation treaty provides for an exemption of the relevant item of income from German taxation. The foreign business in this case would have to apply either for an exemption certificate or for a refund from the German Federal Tax Authorities (*Bundeszentralamt für Steuern*). Such relief will only be granted in case Germany's anti-treaty shopping provisions do not apply (i.e., the beneficial owner of the remuneration needs to have "economic substance").

Other items of income which are subject to German taxation (and, if applicable, to withholding tax) comprise dividend income, income from renting movable and immovable goods and certain interest income (securities and certain profit-participating instruments).

In the absence of a German fixed place of business, no TT will be levied. This aspect can in particular be helpful to optimize investments in German real estate.

As indicated in the VAT section above, non-resident businesses that supply goods or services to resident recipients will be subject to German VAT and need to register with the German tax authorities and apply for a VAT identification number in certain cases. Foreign businesses with no physical presence in Germany that purchase goods or services subject to German VAT may claim a refund of such VAT amounts from the German tax authorities.

III. Doing Business with a German Fixed Place of Business (Permanent Establishment or Permanent Agent) or a German Partnership Subsidiary

1. Permanent Establishment

Under German domestic tax law, a permanent establishment is any fixed place of business where the non-resident's trade or business is carried out. This includes in particular, but not exclusively,

- a principal place of management
- branch offices
- production plants
- warehouses and
- construction sites of more than six months duration.

The definition of a permanent establishment under German domestic tax law is not always identical with the definitions of a permanent establishment in Germany's tax treaties. In case a physical presence in Germany would not qualify as a permanent establishment under an applicable treaty, Germany would not be entitled to tax the foreign business on the basis of a permanent establishment even in case the physical presence would qualify as a permanent establishment under German domestic tax law.

The income attributable to such a permanent establishment can always be taxed in Germany (CIT/ PIT and TT).

The taxable income of the German permanent establishment will be determined with regard to the functions that are assumed by the permanent establishment, and it needs to be taken into account which assets and resources are allocated to such a permanent establishment. The permanent establishment of a foreign corporation will be subject to CIT and TT whereas the permanent establishment of a private individual will be subject to PIT and TT.

According to German domestic tax law, a foreign business that uses a German permanent agent becomes subject to German non-resident taxation. Under German domestic tax law, a permanent representative is an agent who carries out the business of the foreign company in a sustained manner and is subject to its directions. Like the definitions of a permanent establishment under German domestic tax law and under the German tax treaties, the definitions of a permanent representative under both sets of rule differ. German taxation should be limited to CIT/PIT in this case as the permanent agent for German domestic purposes should not qualify as a fixed place of business for TT purposes.

2. Partnership Subsidiaries

For German income tax purposes, partnerships and limited partnerships (for the sake of simplicity hereinafter both referred to as partnerships) are tax transparent, i.e., while the business profit of the partnership is determined at the level of the partnership, it is then allocated to the partners and taxed at their level with CIT or PIT. Because of this tax transparency, any remuneration paid by a partnership to a partner for services rendered, interest paid by the partnership on a loan granted by a partner, or rentals for property leased out by a partner to a partnership do not constitute business expenses for the partnership but increases the partner's share in the partnership's profits.

Yet, as mentioned above, if the partnership is considered to carry out a trade or business, it is liable to TT itself.

Both for CIT and PIT and for TT purposes, the taxable profits of a partnership are calculated at the level of the partnership. Thus, with respect to the deduction of interest payable to third parties, principally the same rules apply as for corporations, i.e., the interest barrier rules. For CIT and PIT purposes the income is attributed to the partners and taxed at this level.

A further consequence of the tax transparency of a partnership is that the adjustments for CIT purposes mentioned above – like the participation exemption for dividend income and capital gains – apply at the level of the partners, not at the level of the partnership itself. Moreover, because the profits calculated at the level of the partnership are allocated to the partners, the partners can directly benefit from the depreciation and amortization as well as from the built-in capital gains of the assets held by the partnership.

As mentioned above, the profits of a partnership are subject to German (personal or corporate) income tax, albeit not at the level of the partnership but at the level of the partners. As a consequence, even foreign partners of a German-based partnership will be liable to German (personal or corporate) non-resident income taxation and, therefore, have to submit German tax returns.

Profits of the partnership can be withdrawn by the partners without incurring any withholding taxes.

IV. Doing Business with Corporate Subsidiaries

1. Cross-border Profit Distributions

German corporate subsidiaries of non-resident shareholders are subject to the ordinary tax system like any other corporate entity. However, certain particularities apply with regard to cross-border profit distributions.

Profits generated in German corporate subsidiaries need to be distributed to the parent shareholder. Profit distributions by a German subsidiary are in principle subject to German withholding tax at a rate of 25% in case the shareholder is a foreign corporation. Such withholding tax is a definite cost at the level of a foreign shareholder unless such recipient of a profit distribution benefits from a tax treaty or the EU-Parent-Subsidiary Directive (**PSD**). Typically Germany's tax treaties follow the OECD model treaty, which provides for a reduction of the withholding tax rate up to 5% in case the shareholding is at least 25% and to 15% in all other cases (individual treaties may differ). The PSD provides for a full exemption from dividend withholding tax in case of a corporate shareholder resident in the EU holding at least 10% in a German corporate subsidiary for at least 12 months.

In order to benefit from the more favorable regime of the PSD, many non-residents doing business in Germany have decided to use intermediate structures with holding companies in other EU countries that provide for a more generous withholding tax regime vis-à-vis countries outside the EU (esp. Luxembourg).

The protection under any tax treaty or the parent subsidiary directive is subject to an exemption certificate of the German Federal Tax Authorities. In the absence of such an exemption certificate, the foreign shareholder claiming the protection under a double-taxation treaty or the PSD needs to request a refund of the tax withheld.

The federal tax authorities will only grant the exemption certificate or make the refund provided that the foreign shareholder passes the substance test under Germany's anti-treaty shopping provisions, which, *inter alia*, require that the foreign shareholder maintains a physical presence abroad and that its interposition in the structure is justified by commercial (or other acceptable) reasons.

As an alternative to profit distributions, the surplus cash of a German subsidiary can be repatriated by way of interest payments under a shareholder loan (taking into account the limitations by the interest barrier rule).

2. Tax Consolidation

Corporate groups in general cannot file a consolidated tax return. However, it is possible for certain entities to create a consolidated tax group or fiscal unity (*Organschaft*) for CIT, TT, VAT and RETT purposes. The requirements for a consolidated tax group for CIT and for TT purposes are the same but differ from those for a consolidated tax group for VAT and for RETT purposes (which in turn are principally the same).

A consolidated tax group can comprise various corporate subsidiaries held by a common parent.

a) CIT and TT

The major advantage of the consolidated tax group for CIT and for TT purposes is that the profits or losses generated in one subsidiary can be netted against the taxable result of any other member of the consolidated group. For example, losses of the parent can be balanced against the profits of a subsidiary, in particular, if the parent suffers losses because it bears the group's financing expenses, whereas the controlled entity earns a profit. Further advantages of creating a German consolidated tax group are that no domestic withholding tax applies on profit distributions and that neither the interest barriers rules nor the TT add-backs apply on intra-group financing.

A consolidated tax group for CIT and TT purposes can be formed between a qualifying shareholder including foreign corporations with a German place of management and control (dual resident), actively trading partnerships and registered branches of non-resident corporations on the one hand and a German subsidiary on the other hand (N.B., following a recent amendment it is sufficient that the subsidiary's place of management is in Germany whereas its statutory seat may also be in another EU member state). The formation of a consolidated tax group requires that

- the controlled entity is financially integrated into the controlling entity (i.e., the controlling entity needs to hold more than 50% of the shares or voting rights in the controlled entity)
- the controlling entity and the controlled entity have entered into a valid and binding profit and loss-transfer agreement (**PLTA**)
- the PLTA is entered into for a fixed period of at least five years (60 months)
- the PLTA is in fact carried out for at least five years unless terminated for an acceptable cause.

For CIT purposes, the controlled entity's taxable income is – subject to some exceptions – assessed as if the controlled entity continued to be independent but is allocated to the controlling entity and is subject to CIT there. However, if there are minority shareholders in the subsidiary, then the PLTA has to provide for compensation payments from the controlled entity to these shareholders. Such compensation payments constitute the taxable income of the controlled entity.

b) VAT

For VAT purposes, the controlled entity is treated as a business unit of the controlling entity. As a consequence thereof, the transactions between these two entities do not trigger VAT.

A consolidated tax group for VAT purposes may comprise non-resident entities, but its effects are limited to business units that are located in Germany. The controlled entity has to be a corporate entity whereas the controlling entity can be any entrepreneur for VAT purposes.

The requirements of a consolidated tax group for VAT purposes are

- Financial integration (controlling entity holds more than 50% of the shares or voting rights in the controlled entity)
- Commercial integration (business inter-dependence of both entities)
- Organizational integration (organizational measures beyond financial integration that ensure the business intentions of the controlling entity are carried out by the controlled entity).

If these requirements are fulfilled, it is of no relevance whether the relevant entities intended to create a consolidated tax group for VAT purposes.

c) RETT

For RETT purposes a consolidated tax group in the sense of the aforementioned requirements may, in particular lead to the result that shares held by dominating and dependent entities may be summarized.

V. Doing Business in Germany using Collective Investment Schemes

The German tax law provides a special regime for collective investment schemes. The investment taxation has been extensively reorganized recently. For this purpose the Investment Tax Act was amended in November 2013. The taxation of investment funds was adapted to the provisions of the new Investment Code, which has been adopted previously to implement the EU AIFM Directive. The Investment Tax Act now applies to undertakings for collective investment in transferable securities (**UCITS**) as well as alternative investment funds (**AIF**).

For tax purposes a distinction is made between investment funds and investment companies. UCITS and AIF are recognized as investment funds under the new provisions of the Investment Tax Act if they meet certain requirements, in particular:

- The UCITS or AIF is subject to supervision at its registered office.
- The shareholder has a right to return his shares at least once per year.
- The business purpose of the fund is restricted to the investment on behalf of shareholders. There is no entrepreneurial management of the assets.
- The asset management must be based on the principles of risk diversification. There are limits for certain categories of assets.

If these conditions are met, the principle of transparency applies to the taxation of the investment fund. Hence, the income of the fund is exempt from CIT and TT. The taxation of the income only takes place on shareholders' level.

Otherwise, i.e. the preconditions mentioned above are not met, the fund is considered as an investment company. In this case, the general tax rules as set out above apply, depending on whether the fund is organized as a partnership or a corporation.

VI. Transfer Pricing

The German tax authorities usually scrutinize very closely the transfer pricing set of rules applied within a group of companies, i.e., the charging of transactions within an international group of companies. In principle the German transfer pricing rules comply with those of the OECD although they are more detailed and more comprehensive. Especially rigid rules are provided for the relocation of whole business units or functions from Germany to another country.

Under German domestic tax law, the basic principle is that the dealings between affiliated companies have to pass the dealing-at-arm's-length test in order to be acceptable for German tax purposes. If the transfer pricing applied within the group does not comply with fair market terms, the tax authorities will adjust the German entities income accordingly.

Hence, in order to be acceptable under German transfer pricing rules, it is essential that the charges for transactions within the group do not differ from the charges that would be agreed upon between independent parties. The respective entity that is subject to German taxation has to choose an acceptable method for the determination of such charges; these are essentially the comparable uncontrolled price method, the resale price method or the cost plus method, whichever may be appropriate in each individual case. The choice of the applied method is in principle also subject to review by the tax authorities. Generally, the tax authorities accept the chosen method provided that it is not substantially inadequate.

In addition to the arm's-length-test, German domestic transfer pricing rules require a detailed and scrupulous documentation of the transaction within the group and of the adequateness of the agreed transfer prices. The relevant documentation needs to be kept for at least ten years. A failure to comply with these formal requirements can easily result in substantial tax detriments:

- Firstly, the tax authorities may be entitled to estimate the taxable income of the relevant corporation and may assume that the income is higher than the income reported in the tax returns.
- Secondly, a fine of 5% to 10% of the estimated income adjustment may be assessed.

Following the so called Authorized OECD Approach the German transfer pricing rules now also apply to international dealings between a (foreign) permanent establishment and the (foreign) parent company.

Dr. Dirk Koch
Rechtsanwalt (Lawyer)
Fachanwalt für Steuerrecht (Tax Lawyer)
Steuerberater (Certified Tax Advisor)
Licencié en Droit
Stuttgart office
dkoch@gsk.de

Dr. Petra Eckl
Rechtsanwältin (Lawyer)
Fachanwältin für Steuerrecht (Tax Lawyer)
Steuerberaterin (Certified Tax Advisor)
Frankfurt office
petra.eckl@gsk.de

Dr. Sebastian Heß
Rechtsanwalt (Lawyer)
Fachanwalt für Steuerrecht (Tax Lawyer)
Steuerberater (Certified Tax Advisor)
Maître en Droit International
Stuttgart office
sebastian.hess@gsk.de

Dominik Berka
Rechtsanwalt (Lawyer)
Diplom-Finanzwirt
Frankfurt office
dominik.berka@gsk.de

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www.gsk.de

GSK STOCKMANN + KOLLEGEN

BERLIN
Mohrenstraße 42
10117 Berlin
Tel +49 30 203907-0
Fax +49 30 203907-44
berlin@gsk.de

HEIDELBERG
Mittermaierstraße 31
69115 Heidelberg
Tel +49 6221 4566-0
Fax +49 6221 4566-44
heidelberg@gsk.de

DUESSELDORF
Bleichstraße 14
40211 Düsseldorf
Tel +49 211 862837-0
Fax +49 211 862837-44
duesseldorf@gsk.de

MUNICH
Karl-Scharnagl-Ring 8
80539 München
Tel +49 89 288174-0
Fax +49 89 288174-44
muenchen@gsk.de

FRANKFURT/M.
Taunusanlage 21
60325 Frankfurt
Tel +49 69 710003-0
Fax +49 69 710003-144
frankfurt@gsk.de

STUTTGART
Augustenstraße 1
70178 Stuttgart
Tel +49 711 2204579-0
Fax +49 711 2204579-44
stuttgart@gsk.de

HAMBURG
Schleusenbrücke 1/Neuer Wall
20354 Hamburg
Tel +49 40 369703-0
Fax +49 40 369703-44
hamburg@gsk.de

BRUSSELS
GSK Stockmann + Kollegen
209a Avenue Louise
B-1050 Brüssel
Tel +32 2 6260 740
Fax +32 2 6260 749
bruessel@gsk.de

SINGAPORE
GSK Stockmann (Singapore) Pte. Ltd.
25 International Business Park
German Centre, #04-113
Singapore 609916
Tel +65 6562 8696
Fax +65 6562 8697
singapore@gsk.de

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Nabarro in the United Kingdom, August & Debouzy in France, Nunziante Magrone in Italy and Roca Junyent in Spain
(www.ourwayofdoinginternationalbusiness.com)

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