Certificate in German Taxation Laws

Taxation of Investments

Abgeltungsteuer (Final Withholding Tax)

Concept: Abgeltungsteuer is a final withholding tax on investment income, including dividends and interest, in Germany.

Related terms: Kapitalertragssteuer, Quellensteuer, Freistellungsauftrag

Explanation: The Abgeltungsteuer is a flat-rate tax of 25% (plus solidarity surcharge and, if applicable, church tax) on investment income. It is a final tax, meaning that it covers both the income tax and the church tax for religious communities that levy church tax. Investors can no longer declare investment income in their annual tax returns, and the tax is withheld at the source by the paying agent (e.g., banks). Investors can apply for a Freistellungsauftrag, a tax-exempt amount, to reduce or avoid the withholding tax.

Betriebsstätte (Permanent Establishment)

Concept: Betriebsstätte refers to a fixed place of business through which a foreign enterprise carries out its business activities in Germany.

Related terms: Gewerbesteuer, Einkommensteuer, Organschaft

Explanation: A Betriebsstätte can take various forms, such as a branch, office, factory, or warehouse. The creation of a Betriebsstätte can trigger German tax obligations for a foreign enterprise, including the payment of Gewerbesteuer (trade tax) and Einkommensteuer (income tax). The German tax system applies the Organschaft principle, which allows a foreign enterprise to form a fiscal unity with its German Betriebsstätte, avoiding double taxation and simplifying the tax compliance process.

Doppelbesteuerungsabkommen (Double Taxation Agreements)

Concept: Doppelbesteuerungsabkommen are bilateral agreements between Germany and other countries to prevent double taxation of income and assets.

Related terms: Wegzugsbesteuerung, Ansässigkeitsstaat, Quellenstaat

Explanation: Germany has concluded Double Taxation Agreements with many countries to regulate the taxation of income and assets. These agreements often allocate the taxing rights between the

Ansässigkeitsstaat (state of residence) and the Quellenstaat (source state) to prevent double taxation. They also provide for reduced withholding tax rates on dividends, interest, and royalties. In some cases, they may include provisions for the exemption or credit method to eliminate double taxation.

Einkommensteuer (Income Tax)

Concept: Einkommensteuer is a direct tax on individuals' and corporations' income in Germany.

Related terms: Lohnsteuer, Kapitalertragssteuer, Gewerbesteuer

Explanation: Einkommensteuer is a progressive tax, with higher tax rates applying to higher income levels. It is levied on various types of income, including employment income, business income, rental income, and investment income. Einkommensteuer rates range from 14% to 45%, plus solidarity surcharge and, if applicable, church tax. Employers withhold the Lohnsteuer (payroll tax) from employees' wages and salaries, while corporations and individuals report their income and pay the Einkommensteuer annually.

Freistellungsauftrag (Tax-Exempt Amount)

Concept: Freistellungsauftrag is a tax exemption amount that investors can apply for to reduce or avoid the withholding tax on investment income.

Related terms: Abgeltungsteuer, Kapitalertragssteuer, Sparer-Pauschbetrag

Explanation: Investors can apply for a Freistellungsauftrag with their bank or paying agent to reduce or avoid the withholding tax on investment income. The tax-exempt amount is based on the Sparer-Pauschbetrag, a flat-rate tax-free allowance of €801 for singles and €1,602 for married couples. If the investment income does not exceed the Sparer-Pauschbetrag, no withholding tax will be levied. The Freistellungsauftrag can be divided among several paying agents, but the total amount cannot exceed the Sparer-Pauschbetrag.

Gewerbesteuer (Trade Tax)

Concept: Gewerbesteuer is a local tax on business income in Germany.

Related terms: Einkommensteuer, Körperschaftsteuer, Hinzurechnungsbetrag

Explanation: Gewerbesteuer is a tax on business income, levied by municipalities in Germany. It is a separate tax from Einkommensteuer and Körperschaftsteuer (corporate income tax) and is calculated based on the taxable business income of corporations and sole proprietors. Gewerbesteuer rates vary between municipalities, but the average rate is around 14%. Businesses can deduct the Gewerbesteuer from their

Einkommensteuer or Körperschaftsteuer liability. However, the Hinzurechnungsbetrag, a surcharge on certain types of income, can increase the Gewerbesteuer base for some businesses.

Hinzurechnungsbetrag (Add-On Tax)

Concept: Hinzurechnungsbetrag is a surcharge on certain types of income that increases the Gewerbesteuer base for some businesses.

Related terms: Gewerbesteuer, Einkommensteuer, Organschaft

Explanation: The Hinzurechnungsbetrag is an add-on tax that applies to certain types of income, such as interest, royalties, and dividends, that are not subject to German taxation. The Hinzurechnungsbetrag increases the Gewerbesteuer base for some businesses, such as foreign corporations with a Betriebsstätte in Germany or German corporations that form a fiscal unity with a foreign corporation. The Hinzurechnungsbetrag can also apply to German corporations that have a high proportion of foreign income.

Kapitalertragssteuer (Capital Gains Tax)

Concept: Kapitalertragssteuer is a tax on capital gains, dividends, and interest in Germany.

Related terms: Abgeltungsteuer, Einkommensteuer, Freistellungsauftrag

Explanation: Kapitalertragssteuer is a tax on capital gains, dividends, and interest, withheld at the source by the paying agent (e.g., banks). The tax rate is 25%, plus solidarity surcharge and, if applicable, church tax. Investors can no longer declare capital gains in their annual tax returns, and the tax is withheld at the source. Investors can apply for a Freistellungsauftrag to reduce or avoid the withholding tax. Capital gains on the sale of shares held for more than one year are exempt from Kapitalertragssteuer.

Körperschaftsteuer (Corporate Income Tax)

Concept: Körperschaftsteuer is a direct tax on corporations' income in Germany.

Related terms: Einkommensteuer, Gewerbesteuer, Organschaft

Explanation: Körperschaftsteuer is a tax on corporations' income, with a flat rate of 15% plus solidarity surcharge. It is a separate tax from Einkommensteuer (income tax) and is levied on corporations' profits, after deducting expenses and taxes. Körperschaftsteuer rates are lower than Einkommensteuer rates, but corporations are also subject to Gewerbesteuer (trade tax). Corporations can form a fiscal unity with their Betriebsstätte, avoiding double taxation and simplifying the tax compliance process.

Organschaft (Fiscal Unity)

Concept: Organschaft is a fiscal unity between a foreign enterprise and its German Betriebs