

## Germany - Information on residency for tax purposes

### Section I – Criteria for Individuals to be considered a tax resident

In accordance with the first sentence of section 1 (1) of the Income Tax Act (*Einkommensteuergesetz*), natural persons whose residence (section 8 of the Fiscal Code [*Abgabenordnung*]) or habitual abode (section 9 of the Fiscal Code) is located in the Federal Republic of Germany are subject to unlimited tax liability. A person is deemed to be resident at the place where they maintain a dwelling under circumstances indicating that they maintain and use that dwelling (section 8 of the Fiscal Code). A person who spends an unbroken period of over six months in the Federal Republic of Germany is generally assumed to have their habitual abode here (section 9 of the Fiscal Code).

Unlimited tax liability also applies to German nationals whose residence or habitual abode is not in the Federal Republic of Germany but who work as public servants and are paid wages from German public funds and who, together with the family members belonging to their household, are subject only to limited income tax liability in the country where they have their residence or habitual abode (section 1 (2) of the Income Tax Act).

Persons subject to limited tax liability may, upon request, be granted unlimited tax liability status if they provide verifiable documentation that (a) at least 90 percent of their calendar-year income is subject to German income tax or (b) the income they receive that is not subject to German income tax does not exceed the basic personal allowance (€8,354 in 2014).

### Section II – Criteria for Entities to be considered a tax resident

The income of (a) corporations (in the sense of legal persons with legal capacity), in particular, incorporated entities (e.g. public companies or limited liability companies), registered and unregistered cooperatives, and registered associations, (b) associations that are not legal persons with legal capacity but that have an association-like structure typical of corporations (e.g. non-registered associations) and (c) pools of assets (e.g. foundations with or without legal capacity) is subject to corporation tax. In accordance with section 1 (1) of the Corporation Tax Act, corporations whose place of management (section 10 of the Fiscal Code) or registered office (section 11 of the Fiscal Code) is located in the Federal Republic of Germany are subject to unlimited corporation tax liability.

The place of management is where senior business management is centred (section 10 of the Fiscal Code).

A corporation, association or pool of assets has its registered office at the location that is determined by law, articles of partnership, statutes, acts of foundation or similar provisions (section 11 of the Fiscal Code).

Note: Tax residency does not depend on whether a corporation, association or pool of assets possesses legal capacity.

### Section III – Entity types that are as a rule not considered tax residents

Associations with or without legal capacity that do not have an association-like structure typical of corporations (e.g. partnerships) are not subject to tax. Income is attributed directly to the individual partners or members and taxed accordingly. The classification of partners or members as tax residents is based on the criteria outlined in sections I and II.

#### **Section IV – Contact point for further information**

The contact points for questions on German tax liability are the competent tax offices as well as the Tax Information Centre (SIC) located at:

Federal Central Tax Office

An der Kueppe 1

53225 Bonn

<http://www.steuerliches-info-center.de>