

# Summary Table of Contents

<b>Foreword to the 2<sup>nd</sup> Edition</b> .....	<b>V</b>
<b>Table of Important Abbreviations</b> .....	<b>XXIII</b>

## Chapter 1: Introduction

<b>A. Purpose of this book</b> .....	<b>1</b>
<b>B. Benefits for readers</b> .....	<b>2</b>
<b>C. Peculiarities of German tax law</b> .....	<b>2</b>
<b>D. Good to know – Useful information and recommendations for foreign investors</b> .....	<b>9</b>

## Chapter 2: Overview of the German tax system

<b>A. Tax subjects; tax liability</b> .....	<b>19</b>
<b>B. Taxpayer</b> .....	<b>20</b>
<b>C. Taxable income</b> .....	<b>22</b>
<b>D. Corporate Income Tax</b> .....	<b>24</b>
<b>E. Trade Tax</b> .....	<b>25</b>
<b>F. Financial statements, accounting and reporting</b> .....	<b>25</b>
<b>G. Electronic tax balance sheet</b> .....	<b>26</b>
<b>H. Group taxation</b> .....	<b>27</b>
<b>I. Tax losses</b> .....	<b>27</b>
<b>J. Value-added Tax</b> .....	<b>28</b>
<b>K. Real Estate Tax</b> .....	<b>31</b>
<b>L. Real Estate Transfer Tax</b> .....	<b>31</b>
<b>M. Customs and excise duties when importing goods to Germany</b> .....	<b>33</b>
<b>N. Tax Incentives for Organisation of General Interest – charitable Organisations</b> .....	<b>33</b>
<b>O. EU Law</b> .....	<b>35</b>
<b>P. Tax Treaties</b> .....	<b>39</b>
<b>Q. Anti-treaty/Directive-shopping rule</b> .....	<b>40</b>

<b>R. CFC regulations</b> .....	41
<b>S. Assessment procedure</b> .....	42
<b>T. Filing and payment</b> .....	43
<b>U. Objection to tax assessment</b> .....	44
<b>V. Statute of limitation</b> .....	45
<b>W. German tax authorities</b> .....	45
<b>X. Tax audits</b> .....	45
<b>Y. Rulings</b> .....	46

### **Chapter 3: Investment through German corporation**

<b>A. Establishment of a corporation</b> .....	47
<b>B. Forms of corporations</b> .....	48
<b>C. Taxation of corporations</b> .....	51
<b>D. Taxation of the shareholder</b> .....	52
<b>E. Thin capitalisation rules</b> .....	52
<b>F. Dividend taxation</b> .....	55
<b>G. Capital gains</b> .....	55
<b>H. Held for trading shares</b> .....	56
<b>I. Change in ownership rule</b> .....	57
<b>J. Trade taxable income</b> .....	60
<b>K. Tax group</b> .....	62
<b>L. Tax assessment period</b> .....	66
<b>M. Electronic Tax Declaration</b> .....	66

### **Chapter 4: Investments through German partnerships**

<b>A. Overview</b> .....	67
<b>B. Available classes of partnerships</b> .....	68
<b>C. General taxation principles</b> .....	69
<b>D. Procedural aspects of income determination</b> .....	82
<b>E. Application of tax treaties</b> .....	83
<b>F. Inbound tax planning with partnerships – Examples</b> .....	89

### **Chapter 5: Investments through German permanent establishments**

<b>A. General</b> .....	108
-------------------------	-----

<b>B. Taxation rules</b> .....	114
<b>C. Profit allocation</b> .....	115
<b>D. Inbound tax planning with permanent establishments – Examples</b> ..	127

### **Chapter 6: Taxation of direct business activities**

<b>A. Introduction</b> .....	136
<b>B. Limited German tax liability</b> .....	136

### **Chapter 7: Special tax problems of cross-border investments**

<b>A. VAT refund problems</b> .....	151
<b>B. German trade tax system</b> .....	152
<b>C. Thin capitalisation rules</b> .....	155
<b>D. Cross-border aspects of German tax groups</b> .....	158
<b>E. Dual consolidated loss rules</b> .....	159
<b>F. Bookkeeping abroad</b> .....	159
<b>G. Taxation of cross-border dividends</b> .....	160
<b>H. Taxation of royalty payments</b> .....	165
<b>I. Anti-abuse Regulations</b> .....	166
<b>J. Hybrid entities</b> .....	173

### **Chapter 8: Tax problems of special industries/business sectors**

<b>A. Investment funds</b> .....	192
<b>B. Real estate sector</b> .....	196
<b>C. Shipping industry</b> .....	205
<b>D. Distribution models: Principal structures</b> .....	210
<b>E. M&amp;A/Private Equity – cross-border reorganizations</b> .....	213
<b>F. Non-profit organizations</b> .....	216
<b>G. E-commerce</b> .....	218
<b>H. Leasing</b> .....	221

### **Chapter 9: Holding companies in Germany**

<b>A. General</b> .....	226
<b>B. Acquisition</b> .....	227
<b>C. Financing</b> .....	227

D. Comparison of corporation and partnership as holding company . . . . 228

E. VAT – entrepreneur status . . . . . 230

F. Limited tax liability . . . . . 230

G. Taxation of partnership . . . . . 231

H. Participation exemption for corporations . . . . . 233

J. Exit taxation . . . . . 236

K. Reorganisations . . . . . 238

L. CFC regulations . . . . . 248

**Chapter 10: Transfer pricing from a German perspective**

A. Introduction . . . . . 254

B. General provisions governing profit allocation between related parties . . . . . 255

C. General principles for the allocation of income . . . . . 259

D. Business restructurings: Relocation of functions . . . . . 270

Index . . . . . 279