Real Estate Property in Germany

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Overview

Investing in German Real Estate is becoming more and more attractive for foreign individuals and corporations.

As the biggest and strongest economy in the European Union, the Real Estate Market is a "safe harbour" for many foreign investors, experiencing an increasingly unstable political and economic environment in their home countries. Next to Germany's overall stability, especially the stable legal environment appears attractive to foreigners to outsource parts of their assets to Germany.

After a relatively steady and stable increase in the Real Estate market over the past decades, the prices and building activities have picked up momentum in the past years. The prices in metropole areas such as Frankfurt, Munich or Hamburg increased overproportionally. Low interest rates on other investments and property loans of under 1%, contribute to the strong increase.

Despite far lower Real Estate prices in the 2nd and 3rd Tier cities and even lower in rural areas, analysts nevertheless forecast a better price development and reliability in the future for the metropole areas. Commonly, as foreign investors tend to invest in the distinguished city locations.

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Notarisation

- Any German Real Estate sale requires the involvement of a German public notary, notarising the sales contract.

Real Estate Transfer Tax (RETT)

- The tax is levied by the relevant tax authority where the property is located and varies between the 14 different federal German states between 3.5% and 6.5% of the purchase price.
- In Bavaria (Munich), the tax is still at a low 3.5%.

Tax

- German taxation belongs to one of the world's most complex and differentiated tax systems.
- The optimum structure is always dependent on the actual project of the client and his specific situation.
- For foreign investments, a number of excellent opportunities exist.
- As tax aspects are fundamental to the net profit for investors, a thorough tax analysis with a specialized tax consultant should be started as early as possible.

Summary

- The German legal and tax aspects of acquiring property are complex, but well- founded with low-risk of complications.
- In comparison to many other countries, even within the European Union, Real Estate business in Germany appears stable, safe, with maintained long lasting profitability.
- The efficient structuring of investment tax has resulted in the German tax rate of 15,825% on profits, which is considered relatively low.

Preferred Acquisition for Foreigners

Taxation will often be more beneficial, if the Real Estate is acquired through a foreign or German corporation. The RETT will be levied equally when buying the property, whereas the rental income and the capital gains after the sale of the Real Estate, will be taxed with a flat 15,825% Corporate Income Tax in Germany. Therefore, it is often first choice for investments with a time horizon of less than 10 years, since this “exit“ tax may have a substantial impact on the return on the investment.

Disclaimer: This guide should not be relied upon without taking further advice. If you would like to discuss any of the issues raised within the brochure, please get in touch with a member of our team.

In addition to the corporate income tax, a further Trade Tax exists in Germany. The Trade Tax varies between 14% and 17%. This tax however, is levied generally only upon corporations with a permanent establishment in Germany. If the Real Estate is managed entirely from abroad, the foreign corporation will not be taxed with German Trade Tax. Therefore, most company structures are often structured in a certain way and Trade Tax is not applicable on those companies.

Repatriation of profits: Dividends are in general subject to 26,375% Withholding Tax. Depending on the location and structure of the recipient, a Double Tax Treaty or the EU parent-subsidiary directive might apply.

A German Partnership may also be an option for certain investors. In general, this structure would be transparent, which means, the taxation of annual profits are determined by the nature of the shareholder, whether an individual or corporation as outlined above. The repatriation of profits however is not taxed, e.g. no Withholding Tax on profits is levied.

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