Investment Guide to North Rhine-Westphalia.
Your Investment Location in Europe.

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INVESTMENT GUIDE TO NORTH RHINE-WESTPHALIA
# North Rhine-Westphalia (NRW) Key Figures

## Demographics
- Population: 17.9 million inhabitants, 526 inhabitants per sq. km
- Religion: Catholic (49 %), Protestant (35 %), Muslim (3.4 %), Other (12.6 %)

## Government
- Form of Government: State Parliament, multi-party system
- Head of State: Prime Minister Hannelore Kraft
- State Capital: Duesseldorf
- Language: German
- National Holiday: October 3rd (German Unification Day)
- Currency: 1 Euro (EUR)

## Economy
- GDP per capita: 30,421 EUR (2010)
- Exports: EUR 162.1 billion (2010)
- Imports: EUR 178.2 billion (2010)

## Geography
- Area: 34.088 sq. km
- Four UNESCO World Heritage Sites
- Important Rivers: Rhine, Maas, Weser, Ems, Ruhr
- Biggest Cities: Cologne, Duesseldorf, Dortmund, Essen and Duisburg
- Most important metropolitan areas: Ruhr region, Rhineland

## Infrastructure
- Two major international airports as well as four airports with European connections, 120 Inland Ports
- Railways: 6,500 km
- Waterways: 720 km
- Expressways: 2,200 km
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Preface
An Attractive Location in Europe

Foreign investors continue to be attracted to Europe, and not without reason: With a gross domestic product of almost 12,279 billion euros, Europe (EU 27) accounts for approx. a third of global economic income and is the world’s most important economy. By comparison, the USA follows in second place with less than 11,059 billion euros.

Germany, Europe’s largest economy, and in particular the economically most important state of North Rhine-Westphalia, offers attractive economic conditions for foreign investors and act as a gateway to the European market.

At 28.7 percent (187.7 billion euros) North Rhine-Westphalia has by far the highest share of direct investments in Germany of all 16 German federal states. More than 11,700 foreign companies from the leading economic nations control their German and/or European activities from North Rhine-Westphalia. These include international global players such as 3M, BP, Ericsson, Ford, LG Electronics, QVC, Renault, Sany, Toyota, and Vodafone. Foreign firms employ over 680,000 people.

The economic development agency of the state of North Rhine-Westphalia, NRW. INVEST GmbH, is a one-stop agency for interested foreign companies wishing to settle in North Rhine-Westphalia and to invest here. Our experts analyze investment projects and offer suitable locations for them in North Rhine-Westphalia. We arrange appointments for negotiations with all those involved in the approval process of an investment and accompany them to their successful conclusion. For investors who have already set up business in North Rhine-Westphalia, we provide particular assistance with expansions, start-ups and spin-offs.

It gives us pleasure to support you with our “Investment Guide to North Rhine-Westphalia” on your path into North Rhine-Westphalia. We want you to operate successfully here and feel at home for a long time.

NRW.INVEST GmbH
Economic Development Agency
of the German State of North Rhine-Westphalia (NRW)

Petra Wassner
North Rhine-Westphalia –
Your Investment Location in Europe

The German state of North Rhine-Westphalia (NRW) was created in 1946 from the former provinces of Rhineland and Westphalia. Located in the west of Germany, North Rhine-Westphalia borders onto Belgium and the Netherlands. With around 18 million inhabitants the state on the Rhine and Ruhr rivers is the most populous and most densely populated in Germany. More than a fifth of the entire population of Germany lives here in the west of the federal republic. The largest cities in the state are Cologne, Düsseldorf, Dortmund and Essen.

21.7 percent of the German gross domestic product and hence around 543 billion euros are generated in North Rhine-Westphalia. This puts the state far ahead of all the other German states, and internationally in 17th place – just behind the Netherlands.

No. 1 Investment Location in Germany

In a comparison of the economic locations of northern Europe, North Rhine-Westphalia competes with metropolitan regions such as Ile de France, Greater London or Randstad in the Netherlands. In a direct comparison, Germany’s most westerly state is doing increasingly well with regard to key indicators. Labor costs, for example, have become more competitive in nearly all sectors of the economy. Office rents and commercial site prices are considerably lower than in other European metropolitan regions. And also in terms of effective company taxation, North Rhine-Westphalia – with a corporate tax rate of only 29.83 percent.

At 28.7 percent (187.7 billion euros), the state has by the highest share of direct investments of all 16 German federal states. Over 11,700 foreign companies from the leading economic nations control their German or European activities from North Rhine-Westphalia. These include international global players such as 3M, BP, Ericsson, Ford, LG Electronics, QVC, Sany, Renault, Toyota and Vodafone. The foreign firms employ over 680,000 people. Their business activities range from pure production to sophisticated services. More than half of the companies have settled in North Rhine-Westphalia since the beginning of the nineties. Around two thirds of the firms concern themselves mainly with sales and services. About one fifth of the companies opened their European headquarters at a location in the Rhine and Ruhr region. For all investors, the decisive arguments in favor of the location were in particular its central position, its proximity to the sales markets and its good transport infrastructure.
North Rhine-Westphalia – Gateway to Europe

North Rhine-Westphalia lies at the heart of Europe. It is one of the most important hubs for European and international transport. The state has a closely knit route network and a state-of-the-art transport infrastructure. Major routes between western and eastern Europe as well as between northern and southern Europe pass through North Rhine-Westphalia.

AIRPORTS

North Rhine-Westphalia has two major international airports - Düsseldorf International and Cologne Bonn Airport - as well as additional airports with European connections in Dortmund, Münster/Osnabrück, Paderborn and Weeze connect the state to all major German domestic destinations as well as to cities and holiday regions all over the world.

With 19 million passengers per year, Düsseldorf is the third-largest German commercial airport following Frankfurt a.M. (53.1 million) and Munich (34.7 million). In the low-cost segment, Cologne/Bonn Airport is the market leader in continental Europe, and Germany’s no. 2 air cargo center after Frankfurt a.M.

The 24-hour operating license of Cologne/Bonn Airport, which remains in place until 2030, ensures maximum flexibility in the handling of flights.

All airports in North Rhine-Westphalia have excellent road and rail links. Düsseldorf and Cologne/Bonn airports have fast rail connections to the centers of the two cities on the Rhine. A good ICE connection between the Cologne/Bonn and Frankfurt a.M. airports also allows passengers to transfer from domestic to overseas flights via the airports.

ROADS

2,200 kilometers of expressways form a dense network of long-distance roads. Every place of importance in the state has its own expressway on- and off-ramp. This means that all parts of the state are connected to the major European trunk roads. There are also 4,900 km of federal highways, 12,800 km of country roads and 9,800 km of local district roads.

RAIL

NRW has the highest rail network density in Germany. Track length amounts up to 6,500 km. The state is an important hub in the high-speed rail network. This includes the Thalys connections from Cologne to Brussels and Paris, as well as ICE line from Cologne via Frankfurt/Main to Munich or Basel.

In addition, Deutsche Bahn AG provides numerous regional trains, with public suburban rail systems also ensuring the mobility of the population.

Furthermore, North Rhine-Westphalia is home to important hubs in freight rail transport. These include Germany’s largest transshipment center at Cologne-Eifeltor and other major hubs in the European rail network such as Duisburg/Oberhausen, the eastern Ruhr region and Hagen.

The new Dutch stretch of goods transport track Betuweroute/Betuwe-Linie directly links the Ruhr metropolis to Rotterdam, Europe’s largest seaport. In order to meet rising demand in goods traffic, North Rhine-Westphalia will be adding a third track to this stretch in the coming years.
The customer service center of Deutsche Bahn is located in Duisburg. In addition, numerous other rail companies focusing on goods traffic are to be found in North Rhine-Westphalia, including some of the largest companies in rail freight transport such as HGK, TX Logistik and Duisport rail.

As Europe’s most important waterway, the Rhine is of outstanding significance for shipping in North Rhine-Westphalia. The Rhine connects the region to the major seaport of Rotterdam. North Rhine-Westphalia is the largest German location for inland ports. Every year, 104.5 million tons of goods are handled at a total of 120 public and private ports. These include the Port of Duisburg, the world’s largest inland port. Other important cargo ports are to be found in Cologne and Neuss. In both cities the ports are linked to freight lines and therefore provide excellent conditions for combined rail-waterway transport.

Lead markets for innovation and sustainability

The state of North Rhine-Westphalia actively supports economic change and the innovative ability of the economy. Its actions focus on the principles of economic and ecological sustainability. Innovative ideas for climate protection or for energy and resource efficiency are needed, as are intelligent solutions to the challenges of a growing world population as well as ageing industrial societies.

North Rhine-Westphalia is therefore focusing its economic development work in the following markets: mechanical and plant engineering, new materials, life sciences, healthcare, media and creative industries, information and telecommunications, mobility and logistics as well as energy and environmental management.

New drive technologies and innovative mobility concepts for people and goods are the answer to the ecological challenges of growing mobility needs. This is why the lead market mobility and logistics embraces three major economic areas: the automotive industry, the logistics market and the innovative electric mobility sector.

An example of intensive exchange: In 2010, the AutoCluster.NRW and Daimler AG presented its “Vehicle concept for urban mobility” in Düsseldorf.

To preserve resources and use energy efficiently requires an innovative plant industry. Mechanical and plant engineering is one of the largest and most diverse industrial sectors in North Rhine-Westphalia. The companies in the state manufacture production facilities for a wide range of industries, with environmentally friendly and energy-saving manufacturing playing an important role.

Various networks promote the industry in North Rhine-Westphalia. RWTH Aachen University is one of the leading universities for this area and provides practical recommendations for action to companies in the industry with its study "Mechanical engineering expertise in NRW – top in 2020".

North Rhine-Westphalia is Germany’s energy supplier. Large power plant operators such as RWE characterize this industry, as do some 200 public utility companies. Together they guarantee optimum energy supply at all times. Power generation is still dominated by fossil fuels, but renewable sources already contribute 10 percent of supply.
In the future the main focus will be on modernizing the networks in order to increase the share of environmentally friendly alternative energies.

The economy needs modern materials in order to be innovative. North Rhine-Westphalia therefore focuses its research and development on new materials. With competitions in the field of material development the state government promotes specialized research in nano- and microtechnology in order to speed up the development of marketable products. The Center for Nanotechnology in Münster is one of the leading institutes in Germany.

Around 80 percent of all innovations in the key industries in Germany are linked to information and telecommunications technologies. In North Rhine-Westphalia the industry generates sales of around 11 billion euros.

In this lead market the state government provides intensive support for the networking of companies as well as joint projects linking business and science. The objective is to identify trends and opportunities for synergies in a strong cluster and to point the companies toward future markets.

In terms of infrastructure, North Rhine-Westphalia is aiming for comprehensive coverage with high-speed networks of up to 100 Mbit/s by the end of 2020.

The media and creative industries are among the most innovative economic sectors. This description embraces a wide range of industries ranging from architecture through product design to computer games. A large number of self-employed people work in these sectors, and the affinity to start-ups is correspondingly high here.

North Rhine-Westphalia is already one of the leading locations in the media and creative economy in Germany. The state now helps companies in the creative industries to establish themselves internationally.

Together with NRW.Bank the state government intends to create a strong consulting and support network for smaller companies in particular.

There are around 300 life science companies based in North Rhine-Westphalia, more than half of which work in industrial and pharmaceutical bio- and nanotechnology. The companies conduct research as well as providing services for the healthcare system – for example with medical analyses.
They can draw on a broad-based science and research landscape in the state. Numerous universities and universities of applied sciences as well as renowned Max Planck Institutes carry out research in the field of bio- and nanotechnology.

E-health is the most important area of innovation in the lead market healthcare. North Rhine-Westphalia was the first federal state to set up a healthcare portal on the Internet. This portal provides the public with easily accessible, reliable information on common diseases.

In addition, the telemedicine program was launched in 2007. Binding quality management and certified further training courses contribute to the acceptance of this innovative field of medicine.

**North Rhine-Westphalia – An Ideal Location for Any Industry**

The steel, automotive and chemical industries have long characterized the industrial landscape of North Rhine-Westphalia. Names such as Thyssen and Krupp are synonymous with this tradition. Today, the range of industries has become much broader. On the one hand, traditional industrial sectors such as mechanical engineering demonstrate their innovative strength, while modern industrial sectors such as biotechnology or communications technologies have emerged.

In 2009, industrial turnover in North Rhine-Westphalia totaled 280 billion euros. This represents 20.5 percent of the total industrial turnover in Germany.

**Automotive**

NRW is one of the most important automotive locations in Germany. Every year, approximately 800,000 passenger cars and commercial vehicles are produced here for the world market, as well as trailers, bodies, containers, vehicle parts, and accessories. In total, i.e. including suppliers that do not produce exclusively for the automotive industry, the industry encompasses approx. 800 companies employing over 200,000 people. The three largest manufacturers in North Rhine-Westphalia are Ford in Cologne, Opel in Bochum, and Daimler in Düsseldorf. Besides the traditionally important AutoCluster, the state also offers great potential in the field of electric mobility: The Rhine-Ruhr metropolitan region with centers of excellence in Aachen, Dortmund and Münster was selected as one of eight model regions for electric mobility in Germany.

**Biotechnology**

Over the last few years, biotechnology has developed into an important innovation and business sector for Germany. With its first-class scientific landscape, numerous internationally successful SMEs and a strong, globally active chemical and pharmaceuticals industry, NRW is a major contributor to this development. One example of the state’s leading international position in biotechnology is the fact that it occupies ninth place worldwide and first place – by a long way – in Europe in terms of the number of biotech patent applications. Some 300 life science firms, of which approx. 200 specialize in biotechnology, mark the state as one of Europe’s leading innovation centers. Major international players based in NRW include Qiagen and Miltenyi Biotec as well as many dynamically growing companies such as AiCuris, Artes Biotechnology, Evocatal, or Protagen. Together, the core biotechnology companies – 68 in total – account for 40 percent of all German sales in this segment.
NRW is Germany’s most important location for chemicals. It is distinguished by its first-class research, its special mixture of a broad mid-market and numerous internationally successful large corporations in the heart of a strongly globally operating chemical and pharmaceutical industry in Europe. As a chemical location, NRW ranks 6th in the EU and 11th in the world in terms of sales with over 36.6 billion euros. In 2009, the NRW share of annual German sales was 34.1 percent. The number of people employed in this industry was around 85,200 (27.7 percent share of German total). The major chemical companies include ALTANA, Bayer, Cognis, Evonik Industries, Henkel, and LANXESS.

More energy is converted and used in NRW than in any other federal state. From a long tradition of utilizing natural resources, a wide-ranging expertise in energy technology has grown in the state. There is a dense network of research institutes here, as well as numerous companies offering innovative energy products and services for increasing energy efficiency and the utilization of renewable energies. For many future-oriented companies, North Rhine-Westphalia is the ideal location. 22,400 people work in 3,200 companies on the development and implementation of regenerative energy technologies. These companies generate sales of around 6.6 billion euros. The companies E.ON and RWE number among the world’s largest energy suppliers. Two world market leaders – SolarWorld and Winergy – have their headquarters in NRW.

The environmental technology sector has grown into a global key industry over the last few years. NRW occupies a strong position nationally in this growth market. With sales of approximately 48 billion euros in the field of environmental technologies the state is the most successful federal state in this sector. The development and application of new environmental technologies not only has positive effects on the environment, but is also a growth driver and employment engine for NRW. With 265,000 employees the industry already provides jobs for more people than the chemical and plastics industry, which is traditionally strong in the state. The strength of NRW is also demonstrated in a national comparison of location factors. NRW offers companies a large demand for environmental technology services and products, extremely well trained specialists, and an outstanding infrastructure. In terms of these three central location factors, NRW occupies a leading national position and presents itself as a highly attractive location for companies. The major players in the industry include Interseroh and Remondis.

In a nationwide comparison, the food industry in NRW occupies an outstanding position. The large number of efficient and mainly small and medium-sized enterprises plays a particularly important role. The strengths of the food industry in NRW lie in the region’s proximity to millions of customers in Germany and abroad, a broad mix
of industries and the presence of highly efficient suppliers of all kinds. These location advantages are maintained and supported by product and process innovations, as well as new market strategies. More than 850,000 people in over 110,000 businesses work in NRW along the food value chain, which ranges from the input sectors of agriculture to the various consumer interfaces in the food retail trade or the food service industry. Renowned global players in the food industry based in NRW include Dr. Oetker, HARIBO and Zentis.

**HEALTHCARE**

With more than one million employees, the health industry is a growth and innovation engine for NRW. A high-quality health landscape profits from excellence in technology, research and supply. Healthcare embraces over 430 hospitals and 134 preventive and rehabilitation facilities with a total of 144,000 beds and around 245,000 employees. The state’s six university clinics and the decentralized model at the Bochum university clinic with their approx. 150 clinical departments and more than 34,000 employees are particularly noteworthy in this respect. Medical technology in NRW is characterized largely by small and medium-sized enterprises. There are more than 160 medical technology companies employing 20 or more people. With approx. 8,600 employees these companies generated sales of more than 800 million euros in 2009. Well-known companies in NRW include 3M Medica, Brasseler, Medtronic and Sarstedt. Nearly 50 pharmaceutical companies are based in NRW. They employ more than 15,000 people and generate sales of 4.6 billion euros. The largest companies include Bayer HealthCare, Grünenthal, Janssen-Cilag, and UCB/Schwarz Pharma.

**INFORMATION AND COMMUNICATION TECHNOLOGIES**

Information and communication technology (ICT) is a mainstay and growth driver of the economy in NRW. ICT initiates innovations in all industries, thereby creating growth and future-proof jobs. 80 percent of all innovations in the key industries of the German economy are ICT-driven. For NRW as an industrial location, ICT is therefore of great strategic importance. More than any other technology, it contributes toward strengthening the state as an innovative technology and service location. In 2008, the 15,170 ICT companies in the state employed around 141,000 people and generated sales of 56.84 billion euros. This represents 10.5 percent of the gross domestic product in NRW. With sales of 11.0 billion the information technology (IT) industry in NRW numbers over 114,000 employees subject to social security contributions (2008). The Ruhr Metropolitan Region distinguishes itself in many areas of IT and software development. Well-known IT companies with their headquarters or branches in NRW include Atos Origin, Fujitsu, Itelligence, Materna and Toshiba. The telecommunications industry in NRW
is particularly well represented along the “Rhine axis”. Besides Vodafone, E-Plus and Ericsson are based in Düsseldorf, and Deutsche Telekom is located in Bonn. In 2008, the industry generated sales of around 45.8 billion euros in NRW with over 26,000 employees. 86 percent of the mobile telephone market in Germany is covered by companies from NRW.

INNOVATIVE MATERIALS

Materials are of fundamental importance to technological progress in our society. What used to be stone, wood or bronze centuries ago is high temperature-resistant ceramics, lightweight fiber-reinforced plastics or special aluminum wrought alloys today. Materials form the basis for practically all technical innovations and are of enormous significance for the markets of the future, with applications in all industries ranging from automotive engineering, aerospace, communications and medical technology to construction. With more than 22 universities and non-university research institutes, including approx. 120 specialized professorships in materials research and more than 500 companies producing materials, North Rhine-Westphalia is the most important location for innovative materials in Germany. Focal points are to be found in the Aachen region, with others in the Ruhr region. Companies in North Rhine-Westphalia include Evonik Industries, Henkel and ThyssenKrupp.

LOGISTICS

NRW with its dense network of transportation routes is one of the central transportation hubs in Europe. Without a highly-developed logistics system, the national and international flow of transportation would not be manageable. The logistics sector is one of the leading growth industries in NRW. With 21,600 companies employing 272,000 people, it is one of the largest industries in NRW. Including the employees who perform logistical tasks in industrial and commercial enterprises, there are more than 607,000 people working in the logistics industry. In addition, the Fraunhofer Institute for Material Flow and Logistics (IML) in Dortmund is one of the world’s largest research facilities in the field of logistics. Well-known industry players based in NRW include Deutsche Post DHL, FedEx, Fiege, NYK Logistics, Rhenus, Schenker, UPS, and Wincanton.

At the beginning of 2010, the World Bank named Germany as the world logistics champion, the most efficient logistics location. An accolade to which Germany owes North Rhine-Westphalia a great deal: Almost all of the industry players are headquartered in the Rhine/Ruhr state.

MECHANICAL ENGINEERING

Mechanical engineering is a core area of the economy in NRW and the biggest industrial employer with more than 197,000 employees (21.1 percent of the German total in this industry). It determines innovation more than almost any other sector. The very large majority of the industry has a small and medium-sized company structure. A dense network of universities with institutes geared to production technology provides world-class potential, enabling industrial development to be strengthened by the necessary scientific support. In 2009, the share of industry sales accounted for by the 1,400 NRW businesses was 23 percent. The largest companies in the industry include ThyssenKrupp, GEA, Gildemeister, and SMS.

MEDIA

North Rhine-Westphalia is Germany’s leading media location and one of the most rapidly developing media regions in Europe. There are over 65,000 media and communications companies based in the state at present, providing employment for around 342,500 people. The sales generated in North Rhine-Westphalia total
around 120 billion euros – considerably more than in any of the other federal states. While most federal states are leaders in one particular industry, as a media location North Rhine-Westphalia stands on a broad, future-oriented foundation which is very strong in many media segments: One third of the TV minutes produced in Germany come from North Rhine-Westphalia. With the Cologne-based TV stations RTL (the largest private German broadcasting station) and WDR (the largest broadcasting company within the ARD) the state is one of Europe’s leading TV locations. In addition, with the WAZ Group, DuMont Schauberg and Mediengruppe RP, three of the six largest German regional newspaper publishers are based here.

Also in the digital media environment, North Rhine-Westphalia is the preferred location of various leading companies from the segments online/web, mobile and games (e.g. Electronic Arts, Sevenload, Ubisoft). And not least the top industry events and leading trade fairs taking place in the state such as dmexco, gamescom and mediengroup.nr.w underline the leading role of the media state North Rhine-Westphalia.

MICROSYSTEMS TECHNOLOGY

Microsystems are micro-structured products with structures in the micrometer range and whose technical function is dependent on the form of the microstructure. With more than 350 MST players, North Rhine-Westphalia occupies a leading position in Germany. 28 percent of all German companies and research institutes in the MST sector are based here. The regional focal points are to be found in Dortmund, Aachen, Münster, Cologne/Bonn and in the Ruhr Metropolitan region. Well-known companies in this field include Bartels Mikrotechnik, microTEC, ELMOS, iX-Factory and Syntics.

NANOTECHNOLOGY

Nanotechnologies are seen as being key technologies for the 21st century. They describe the examination, application and manufacture of structures with a dimension which is typically less than 100 nanometers with the resulting new functionalities and properties. North Rhine-Westphalia occupies a leading position in the field of nanotechnologies throughout Germany and Europe. In total, there are more than 190 players researching at over 30 locations in North Rhine-Westphalia. At present, this outstanding research landscape benefits approx. 180 companies which concern themselves specifically with nanotechnologies. These include 3M Deutschland, Bayer MaterialScience, BYK Chemie, FRT GmbH and RAITH.

PLASTICS

With its distinctive cross-sectional character, the plastics industry is the carrier and driver of innovations in the fields of materials, production processes and products for practically all areas of life in NRW. A continuous value added chain of plastic manufacturers, plastic processors and manufacturers of plastic-processing machinery, an extensive scientific, research, and service landscape, and a broad spectrum of users with, in some cases, considerable plastic-processing capacities which are recorded statistically in other sectors (e.g. automotive, electrical engineering, furniture), are all proof of the industry’s excellence.

Around 950 companies with 20 or more employees from the plastics industry, hundreds of small companies, manufacturers of plastic-processing machinery, user firms with their own processing capacities, as well as associations and facilities from science and education, form the plastics cluster in NRW which amounts to a total of approx. 3,000 companies and organizations with well over than 115,000 employees. Successful
companies include include Basell Polyolefine, Bayer MaterialScience, Evonik Industries, LANXESS (manufacturer), Krallmann, Poschmann Union (processor), and Hennecke, Reifenhäuser (mechanical engineering).

Strong Industry Offers a Good Environment for Service Providers

Nowhere else in Germany do industry-related service providers (e.g. consultancies, engineering offices, EDP, R&D) – many of which are business partners to industrial companies – contribute so much to innovation and value added as in North Rhine-Westphalia. The strength of industry in NRW is due in no small measure to the strength of these industry-related service providers.

Nearly 30 percent of the sales generated in the narrower sense by industry-related service providers in Germany comes from North Rhine-Westphalia – more than in any other state. The same is true of employment: Around 28 percent of all people employed in industry-related services in Germany work in NRW. 24.2 percent of the companies from the associated economic sectors are also located here.

Structural change: In 1970, 55.7 percent of the state’s gross value added was generated in industry and only 42.3 percent in the service sector. By 2009, this ratio had been more than reversed: the service sector dominated in North Rhine-Westphalia with 73.2 percent as compared to industry with 26.2 percent.

North Rhine-Westphalia – One of Europe’s largest marketplaces

17 percent of German exports are “made in North Rhine-Westphalia” (162.1 billion euros). As an independent exporting nation, North Rhine-Westphalia would occupy 18th place in the world. 22 percent of all German imports go to North Rhine-Westphalia (178.2 billion euros). The state’s total trading volume amounts to 340 billion euros.

North Rhine-Westphalia is clearly an attractive location for trading companies: 19 of the 50 largest German trading companies are based here, including such well-known names as Bayer, Deutsche Telekom, E.ON, Metro, Rewe and RWE.

Highly Qualified Workforce

North Rhine-Westphalia has a high density of universities and research institutions. These include 68 universities and universities of applied sciences with more
than 500,000 students, nearly 50 technology centers and around 54 non-university research facilities.

Several internationally renowned institutions such as the German Aerospace Center, 12 Max Planck Institutes, 11 Fraunhofer Institutes and 11 Leibniz Community Institutes are based in North Rhine-Westphalia. The well-known Forschungszentrum Jülich research center with its numerous institutes conducts research mainly in the field of innovative technology. Peter Grünberg, winner of the Nobel Prize in physics 2007, researched into giant magnetoresistance here – a discovery without which modern computers with hard disks capable of storing huge data volumes or mp3 players would be completely unthinkable.

**North Rhine-Westphalia – the World’s Biggest Trade Fair Venue**

With Cologne, Düsseldorf, Essen and Dortmund, North Rhine-Westphalia is the world’s no. 1 trade fair location. More than 60 internationally leading trade fairs – such as drupa, boot, anuga, photokina, MEDICA, Schweißen & Schneiden, and SECURITY – attract approx. six million visitors every year.

**One of Europe’s Richest Cultural Landscapes**

North Rhine-Westphalia has one of the most important cultural landscapes in Europe. Over 180 theatres, ballets and opera houses offer a wide range of cultural activities. 680 museums exhibit art and archaeology throughout the state. One of the most important art collections in North Rhine-Westphalia of international renown is the Museum Ludwig in Cologne with a major collection of works by Picasso.

Architectural highlights such as the cathedrals in Aachen and Cologne, Augustusburg Castle or the Zollverein Coal Mine Industrial Complex – all of which are UNESCO World Heritage Sites – attract millions of tourists. Cologne Cathedral is Germany’s most famous and most frequently visited tourist attraction.

Between the Rhine and Weser rivers, North Rhine-Westphalia offers a highly varied landscape with numerous opportunities for sporting activities and recreational holiday experiences. Three-quarters of NRW is comprised of nature and green spaces. The landscape is characterized by 14 natural preserves and the National Park Eifel, more than 200 lakes and dams as well as the popular skiing region in Hochsauerland.
1 Coming to NRW

Who Needs a Visa?
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At some point in the process of setting up a company, investors usually have to come to Germany in person. Like every country, Germany has certain entry regulations that require different types of visas and permits. What documents are needed for certain business activities? And most importantly: how can they be obtained?

Who Needs a Visa?

EU Nationals

Generally, EU nationals may enter, stay, and work in Germany without any visa. They only have to register at the local registration office (Einwohnermeldeamt), which issues a declaratory residence permit if their stay in Germany exceeds 90 days.

Non-EU Nationals

Citizens of non-EU countries generally require a visa to enter and stay in Germany.

For short-term stays in Germany (stays not exceeding 90 days per six-month period starting from the initial date of arrival) a Schengen visa is needed which is generally sufficient for most steps required to establish a business in Germany.

Is the duration of the stay exceeding 90 days (per six-month period) or is a (self-employed or gainful) occupation taken up, all non-EU citizens require a residence permit (Aufenthaltserlaubnis) or settlement permit (Niederlassungserlaubnis). The respective local German embassy initially issues a national visa for entry into Germany. The national visa is converted into a residence or settlement permit by the local immigration office (Ausländerbehörde) in Germany.

Please note: the type of residence title depends on the investor’s country of origin, the length of the intended stay and the intended business activity in Germany.

<table>
<thead>
<tr>
<th>Types of Visa</th>
<th>Needed for</th>
<th>Visa Required</th>
<th>Required for</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schengen Visa</td>
<td>Stays in Germany for up to 90 days per six-month period</td>
<td>Schengen Travel Visa (for business persons in the form of a „business visa“)</td>
<td>Entrepreneurs setting up businesses</td>
</tr>
<tr>
<td>National Visa</td>
<td>Stays in Germany exceeding 90 days, with the intention of taking up gainful occupation</td>
<td>Residence permit for the purpose of self-employment</td>
<td>Entrepreneurs running the business in Germany</td>
</tr>
<tr>
<td>National Visa</td>
<td>Stays in Germany exceeding three months, with the intention of taking up gainful occupation</td>
<td>Residence permit for the purpose of taking up employment</td>
<td>Employees working in Germany</td>
</tr>
</tbody>
</table>

Citizens of the new EU states Bulgaria and Romania still require a work permit if they are employed in Germany. These transitional rules will cease by 2014 at the latest. However, since 2009 the labor market has been open to university graduates from these new EU states. From May 2011, citizens of the EU states Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia enjoy the full right of free movement of workers and have free access to the German labor market without any restrictions.
**Schengen Visa and National Visa**

For short-term stays in Germany (up to 90 days per six-month period starting from the initial date of arrival) all non-EU citizens require a Schengen visa to enter Germany. With this visa, entrepreneurs can perform most activities necessary to set up their business in Germany.

Is the duration of the stay exceeding 90 days (per six-month period) or is a (self-employed or gainful) occupation taken up, a national visa is required to enter Germany. In Germany, this national visa must be converted into a residence or settlement permit by the responsible local immigration authority (Ausländerbehörde) in order to stay in Germany according to the intended purpose of the trip.

However, there are visa exemptions for several countries. Citizens from Argentina, Australia, Brazil, Canada, Hong Kong, Israel, Japan, Mexico, New Zealand, South Korea, the United States and some other countries may stay in Germany up to 90 days without any visa. Still, a national visa is required when entering Germany for long-term purposes or when a (self-employed or gainful) occupation is taken up.

Only citizens from Australia, Canada, Israel, Japan, New Zealand, South Korea, and the United States may enter Germany for long-term stay purposes without a national visa. These foreign nationals may directly apply for the necessary residence or settlement permit at the immigration office (Ausländerbehörde) in Germany.

The Federal Foreign Office (Auswärtiges Amt) is able to provide detailed information on individual rules for certain countries.

**Entry Requirements into Germany for Different Countries**

[www.auswaertiges-amt.de](http://www.auswaertiges-amt.de)

**Residence Permit and Settlement Permit**

Entrepreneurs from non-EU countries require a residence permit (Aufenthaltserlaubnis) or a settlement permit (Niederlassungserlaubnis) if they want to run a business in Germany on-site or if they are employed in Germany.

A residence permit is always limited in time, a settlement permit (Niederlassungserlaubnis) is unlimited. A settlement permit will usually be issued, if a non-EU citizen has been in possession of a residence permit for at least five years. Both residence and settlement permit are always issued for a specific purpose, usually for the purpose of self-employment or for the purpose of taking up employment in Germany.

A residence or settlement permit will be issued by the local immigration office (Ausländerbehörde) in Germany. To enter Germany, a national visa is issued for the trip to Germany by the responsible German embassy in the applicant’s home country or country of residence. This is then converted into a residence or settlement permit in Germany.
However, there are exceptions for several countries. Citizens from Australia, Canada, Israel, Japan, New Zealand, South Korea, and the United States may enter and stay in Germany without a national visa (up to 90 days). The application for a residence or settlement permit for the purpose of self-employment or taking up employment can be filed at the local immigration office in Germany.

The German Federal Office (Auswärtiges Amt) has detailed information on visa requirements available. Please also refer to the following site:

Entry Requirements into Germany for Different Countries
www.auswaertiges-amt.de

Visa for Entrepreneurs

Depending on the intended business activities in Germany, different types of visas are relevant to entrepreneurs:

- Visas sufficient for the setting up of a business (Schengen Visas normally apply in this case)
- Visas required for running the business on-site (usually national visas)

Visas for Setting up Business

For non-EU nationals a Schengen visa is generally sufficient for most steps which are required to establish a business in Germany (usually called a business visa in this context).

A Schengen visa permits a 90-day stay in Germany (per six-month period starting from the initial date of arrival), during which all of the key business formation steps can be carried out. These include:

- The conclusion and notarization of the articles of association
- Application for entry in the commercial register (Handelsregister) through a German notary
- Trade registration
Other preparatory activities during the business establishment phase (such as opening a bank account or the conclusion of rental agreements)
- Negotiations and the conclusion of contracts with business partners

Citizens of certain countries may stay in Germany for up to 90 days (per six-month period) without a Schengen visa.

Schengen visa applicants (business visa applicants) will usually be asked to present certain documentation such as:
- a letter of invitation by the German business partner
- documentation of employment and salary certificate
- a letter from the applicant’s employer confirming the business purpose of the trip
- proof of travel health insurance

Where the entrepreneur personally applies for a Schengen visa (or business visa), documents such as a copy of the foreign company’s entry in the foreign commercial register, articles of association, and bank statements from the last three months may also be required.

In some cases, authorities might require a national visa, namely a residence permit for the purpose of self-employment (Aufenthaltserlaubnis für selbständige Tätigkeit), during the last phases of setting up a company. A residence permit for the purpose of self-employment allows individuals to perform all of the steps necessary to establishing a business in Germany as well as running the business on-site.

If the establishment of the company and the stay in Germany exceed 90 days it is also necessary to apply for a residence permit in advance.

Please note: Establishing a business in Germany with a Schengen visa (business visa) is no guarantee for the subsequent issuing of a residence permit. For this reason it is necessary - appropriate to the intended business activities in Germany - to apply for a residence permit for the purpose of self-employment or regular employee purposes in advance.
Visas for Running the Business On-Site

Business operators who are from non-EU countries and who manage their company on location in Germany as a self-employed person require a residence permit for the purpose of self-employment (Aufenthaltserlaubnis für selbständige Tätigkeit).

This is generally issued if positive economic consequences are to be expected from the investment project and the financing is secure. As a rule, these conditions are considered to be fulfilled if:

- at least EUR 250,000 is invested and
- at least five new jobs are created.

Where these standard requirements are not met, a residence permit for the purpose of self-employment may nevertheless be granted. In such cases, German authorities, i.e. the responsible local immigration office (Ausländerbehörde) together with local Chambers of Commerce and Industry (Industrie- und Handelskammer, IHK), will assess the underlying business idea.

A residence title for the purpose of self-employment is limited to a maximum of three years. If the investment project is successful (and success and sustenance appear to be secure over the long term), after three years it is possible to issue a (permanent) settlement permit.

Foreign business operators are considered to be self-employed if they are:

- Sole traders (including freelance professions)
- Partners in a partnership
- Managing partners
- Managing directors or managerial employees with proxy or full power of attorney who personally carry a business risk

A (permanent) settlement permit (Niederlassungserlaubnis) is unrestricted in time and place and automatically includes the right to take up gainful employment. It is issued if a foreigner has been in possession of a residence permit for five years.

Self-employed foreigners may be granted a settlement permit after only three years if the foreigner has successfully realized the business idea and his or her livelihood is secured.

Visa for Employees

When is a Visa required?

Citizens of the European Union (EU), the European Economic Area (EEA), and Switzerland can work in Germany without any visa.

EU citizens from the new Eastern European EU member states Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia (until 2011 at the latest); and Bulgaria and Romania (until 2014 at the latest) still require a work permit for non-self-
employed work in Germany. However, since 2009 the labor market has been opened up to university graduates from the new EU states.

Nationals from all other countries have to apply for a residence permit for the purpose of taking up employment (Aufenthaltserlaubnis für abhängige Beschäftigung).

The Residence Permit for the Purpose of Taking Up Employment

The residence permit for the purpose of taking up employment (Aufenthaltserlaubnis für abhängige Beschäftigung) contains both: the permit to stay and the permit to work in Germany.

Foreign nationals no longer have to apply separately for a work permit at the employment office. The residence permit for the purpose of taking up employment contains a statement as to whether and to what extent work will be permitted.

Exceptions for Highly Qualified Foreigners

Highly qualified persons may be granted a permanent settlement permit immediately upon coming to Germany without approval of the Federal Employment Agency.

Highly qualified persons are defined as

- scientists with special technical knowledge active in teaching OR
- scientific personnel in prominent positions OR
- specialists and executive personnel with extensive professional experience
- with an annual salary of at least EUR 66,000 (EUR 55,800 in the new federal states) in 2009.

Unskilled and low-skilled foreign workers from non-EU member states may generally not work in Germany - this is referred to as the Recruitment Ban (Anwerbestopp).

For a number of jobs requiring at least three years of professional training, the Federal Employment Agency can however grant approval for foreign employees. This includes, for example, IT specialists, academics, executive staff, and internal company specialists.

Exceptions for Employees Temporarily Posted to Germany

There are different regulations allowing non-EU-based companies to temporarily send employees to Germany without having to receive the approval of the Federal Employment Agency. For example, the approval requirement is not needed for certain occupational groups posted for up to a total of three months within a twelve month period (the three month period does not have to be consecutive).
Visa for Partner and Children

Family members of foreign nationals may be granted permission to live in Germany if the foreigner possesses a settlement permit or a residence permit and if sufficient living space is available.

Spouses of foreign nationals can for instance claim a residence permit if the foreigner possesses a settlement permit or a residence permit for the purpose of self-employment. Additionally, the marriage must have already existed at the time the foreigner was granted the permit and the duration of the foreigner’s stay is expected to exceed one year. If the foreigner possesses a residence permit for the purpose of economic activity (employed or self-employed), the spouse may take up work as well.

If these requirements are not met, it is still possible for a residence permit to be granted on a discretionary basis. Children (under 18 years of age) of a foreigner can claim a residence permit if both parents hold a residence permit or settlement permit, and if the children relocate to Germany with their parents.

Visa Application Process

What prerequisites need to be met for a visa?

When applying for a visa, foreign nationals are obligated to prove that they have:

- a passport valid for another three months after leaving Germany
- documents verifying the intended purpose of the stay in Germany
- a health insurance policy valid for all Schengen states providing medical coverage equivalent to the value of at least EUR 30,000 (including return transportation)
- sufficient financial means to cover all costs of the trip to and stay in Germany

Where to apply for a visa?

For most foreign nationals, visas have to be obtained prior to entering Germany in their respective home country. The German missions abroad (German Embassy or German Consulate General) are responsible for receiving applications and issuing the visa. They provide visa application forms in various languages free of charge.
To facilitate the application process, Germany’s Federal Foreign Office (Auswärtiges Amt) also provides online application forms in a number of languages. Applications for short-term visas (Schengen visas) for up to three months may also be submitted online via the application service of the Federal Foreign Office.

Who will issue the visa?

Visas are issued by the German mission abroad in the country where the visa application has been made. Foreign nationals applying for a residence permit to take up self-employment or employment receive the permission to enter Germany and to take up work from the German mission abroad.

However, upon entering Germany, foreign nationals with a national visa of this type (residence permit for the purpose of taking up self-employment or employment) have to contact the responsible local Foreigners’ Registration Office (Ausländerbehörde) in Germany which issues the residence permit for gainful occupation.

Some foreign nationals may enter Germany without any visa. Any required visa permitting work (self-employed or employed) can be applied for and issued by the local Foreigners’ Registration Office in Germany.

How long does it take to issue a visa?

A visa for a short-term stay (Schengen Travel or Schengen Transit Visa) will usually be issued within around two to ten working days.

For visas permitting the holder to work (self-employed or employed) in Germany, a processing time of a few months should be expected. Embassies and Consulates General charge a handling fee of EUR 60 for Schengen Visas, national visas, and hybrid visas (Schengen and national visas) respectively.
NRW Representative Offices

Foreign investments require thorough preparation by the companies involved. This is why the state-owned economic development agency NRW.INVEST assists and advises foreign investors long before they arrive in Germany. Besides two subsidiaries in the USA and Japan, NRW.INVEST operates representative offices in China, India, Korea and Turkey. Potential investors can therefore already receive advice from location experts in their own country – ranging from economic data on North Rhine-Westphalia, Germany and Europe through potential locations and spaces to network contacts and information about possible promotion programs.

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2 Establishing a Company
The Legal Form
Business Registration
Transferring Assets
Business Premises
Any entrepreneur who wishes to start a business in Germany may do so: there are generally no restrictions limiting the establishment of new companies. Nevertheless, establishing a business in Germany requires a sequence of several specific steps from choosing the appropriate legal form for the business to entry in the trade register. We’ll help you every step of the way.

The Legal Form

Foreign investors can choose between a variety of legal forms for conducting business in Germany. There is no specific investment legislation in Germany, nor is a minimum percentage of German shareholdings required for foreign entrepreneurs.

Decisive criteria for the choice of legal form are generally the intended function of the shareholders, liability and terms of taxation. Expanding companies often choose to establish a local subsidiary or to register a local branch office. Especially the subsidiary’s degree of independence is a major argument for this option. Foreign companies can choose the most suitable legal company form as a corporation or partnership. Either way, the establishment procedure is straightforward with well-defined steps.

Corporations

Corporation Forms: Quick Facts

<table>
<thead>
<tr>
<th>Legal/Establishment Form</th>
<th>Minimum Number of Partners</th>
<th>Minimum Share Capital</th>
<th>Legal Liability</th>
<th>Establishing Formalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limited Liability Company (GmbH)</td>
<td>One partner</td>
<td>EUR 25,000</td>
<td>Liability limited to share capital</td>
<td>Moderate</td>
</tr>
<tr>
<td>Limited Liability Entrepreneurial Company (“Mini GmbH”)</td>
<td>One partner</td>
<td>EUR 1.00</td>
<td>Liability limited to share capital</td>
<td>Low-moderate</td>
</tr>
<tr>
<td>Stock Corporation (AG)</td>
<td>One partner</td>
<td>EUR 50,000</td>
<td>Liability limited to share capital</td>
<td>Moderate-high</td>
</tr>
<tr>
<td>Partnership Limited by Share (KGaA)</td>
<td>Two partners: general partner and limited shareholder</td>
<td>EUR 50,000</td>
<td>General partner: personal unlimited liability Limited shareholder: limited share liability</td>
<td>Moderate-high</td>
</tr>
</tbody>
</table>

When choosing the legal form of the company, a corporation is usually the best option for larger, established companies. There are four major forms of corporations under German law:

- Limited Liability Company (GmbH)
- “Mini GmbH” (Limited Liability Entrepreneurial Company)
- Stock Corporation (AG)
- Partnership Limited by Shares (KGaA)
A corporation is a legal entity, meaning that the holder of rights and obligations is not the individual shareholder, but the company itself. The corporation itself concludes contracts, holds assets and is liable for taxation.

Liability is limited to the corporation’s business assets, including share capital. A minimum share capital is required, and the accounting obligations are more extensive than those for other business legal forms (such as partnerships).

A corporation can be established by any number of different partners. Compensating the limited personal liability of the shareholder(s), corporations require a minimum share capital. It can be contributed in cash or in kind (e.g. real estate or patents). The establishment must be specified in the articles of association and certified by a notary. Additional establishment steps are necessary for certain forms of corporations.

The establishment procedure ends with registration in the commercial register (Handelsregister). Only at this point in time does the corporation’s limitation of liability become effective. The application for the registration of the company in the commercial register has to be signed by the managing director(s) personally before a notary, who certifies and files it with the responsible commercial register in electronic form. Prior to the corporation starting business, the trade office (Gewerbe- oder Ordnungsamt) must be notified of the business activity in question.

Corporations are liable to corporate income tax, trade tax and solidarity surcharge. The average tax burden is less than 30 percent. In some regions, due to a locally variable rate of trade tax, it is under 23 percent.

**Limited Liability Company (GmbH)**

The German limited liability company (Gesellschaft mit beschränkter Haftung, GmbH) is the most widely used legal form for corporations. It combines high flexibility with relatively few obligations. A GmbH is liable to corporate income tax, solidarity surcharge and trade tax.

Setting up a GmbH is easy and uncomplicated and can be accomplished in just a few steps.

**Steps Needed to Set Up a GmbH in Sequence**

1. Decision to set up a company
2. Procurement of capital and partners
3. Notarization of the Shareholders’ Agreement
4. Application for Commercial Register
5. Entry into the Commercial Register
6. Local Trade Office Registration

The ideal registration time is 2-3 weeks from time of application.

Is performed by a German Notary
SHARE CAPITAL

The minimum share capital required to establish a GmbH is EUR 25,000 (this can also be made up of contributions in kind). At the time of registration, at least half of the minimum capital (i.e. EUR 12,500) must be actually and verifiably contributed on a bank account.

FORMATION PROCEDURE

The formation procedure of a GmbH is fairly uncomplicated, as it is established by the founding shareholder(s) executing a deed of formation and articles of association in the presence of a notary.

For uncomplicated standardized formations of a GmbH model articles of association (for set-ups by cash subscription with a maximum of three shareholders and one managing director) are provided. These articles must still be notarized, but for a reduced fee.

In addition, sample deeds are also provided by the chambers of industry and commerce (Industrie- und Handelskammer, IHK).

Ideally, the time period required for the formation of a GmbH is two to three weeks. The estimated total costs for the formation of a standard GmbH are approximately EUR 750 to EUR 1,000 plus fees for legal counsel if a lawyer is employed to draw up the articles of association. The German Bar Association provides a register of German lawyers.

German Bar Association (*Deutscher Anwaltverein*)
http://anwaltverein.de

MANAGEMENT

A GmbH is managed and legally represented by its managing directors. There must be at least one managing director (who does not have to be a shareholder or a German resident). By issuing binding instructions or directions to the managing directors, the shareholders may exercise direct influence on the management of the GmbH.

REGISTRATION

In order to be valid, the GmbH must be entered into the commercial register (*Handelsregister*). All managing directors (*Geschäftsführer*) must sign the commercial register application in person in the presence of a notary.

Once registered in the commercial register, the GmbH becomes a legal entity. The GmbH must then be registered at the local trade office (*Gewerbe- oder Ordnungsamt*).
“Mini GmbH” (Limited Liability Entrepreneurial Company)

The Mini GmbH (Unternehmergesellschaft UG, haftungsbeschränkt) is not a separate legal form of company, but a GmbH which has a minimum capital of less than EUR 25,000 and where cash subscription is required. This means that it is possible to set up a company with limited liability in Germany with capital of only EUR 1.00.

In order to compensate the initial absence of capital the company has to retain a quarter of its annual profit until it has accumulated the minimum shareholder capital of an ordinary GmbH (which is EUR 25,000). The accumulated capital can then be converted into share capital and the Mini GmbH altered into a standard GmbH.

For uncomplicated standardized formation of a Mini GmbH model articles are provided. These articles must still be notarized, but for a reduced fee. Thus, establishment costs for a Mini GmbH are reduced to a total of around EUR 300.

Except for the abovementioned specific provisions the Mini GmbH - by terms of law - is generally subject to the same duties and rights as the standard GmbH.

Stock Corporation (AG)

A stock corporation (Aktiengesellschaft, AG) generally enjoys a high market reputation among business partners. However, the founding formalities and costs of an AG are relatively high, and the AG is subject to extensive organizational obligations in day-to-day business. The AG is liable to corporate income tax, solidarity surcharge and trade tax.

In principle, an AG can be established by any individual. Generally speaking, there are only two founding obligations to be observed. First, an AG must have a minimum share capital of EUR 50,000 (which must be fully subscribed by the founding shareholders) and articles of association need to be certified by a notary. Legal consultation is advisable for drawing up the articles of association. The German Bar Association (Deutscher Anwaltverein e.V.) provides a register of German lawyers.

German Bar Association (Deutscher Anwaltverein)
http://anwaltverein.de

APPOINTING THE MANAGEMENT

The founding shareholders appoint the first auditor (Abschlussprüfer) and supervisory board (Aufsichtsrat), which in turn appoints the first management board (Vorstand). The appointment of the first auditor and supervisory board must be notarized.

The founding shareholders must also prepare a formation report with the relevant details of the establishment of the AG. This report has to be scrutinized by the boards.

The AG is managed by its management board. Neither supervisory board nor shareholders can exercise direct influence on the management board.
The AG comes into existence upon registration in the commercial register (Handelsregister). The application must be signed by the founding shareholders, the members of the supervisory board, and the management board before a notary. In addition, an AG must be registered with the local trade office (Gewerbe- oder Ordnungsamt).

**Partnership Limited by Shares (KGaA)**

The partnership limited by shares (Kommanditgesellschaft auf Aktien, KGaA) combines the structures of a stock corporation (AG) and a limited partnership (Kommanditgesellschaft). It connects the entrepreneurial commitment and personal standing of the individually liable shareholders (general partners) with the function of the AG as a public company and source of capital. The KGaA can be described as a stock corporation having individually liable shareholders (general partners) instead of a management board.

The KGaA is not a frequently used legal form in Germany. It is liable to corporate income tax, solidarity surcharge and trade tax.

The KGaA can have an unlimited number of capital investors (limited shareholders), whose liability is limited once they have paid their subscribed capital contribution. The minimum share capital of a KGaA is (in total) EUR 50,000. The limited shareholders have more or less the same legal rights as shareholders in an AG. At least one partner of the KGaA, the general partner, has to be liable for debts and liabilities of the KGaA without limitation.

The KGaA must be entered into the commercial register and registered with the local trade office.

**Partnerships**

**Partnership Forms: Quick Facts**

<table>
<thead>
<tr>
<th>Legal/Establishment Form</th>
<th>Minimum Number of Partners</th>
<th>Minimum Share Capital</th>
<th>Legal Liability</th>
<th>Establishing Formalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Law Partnership (Gbr)</td>
<td>Two partners</td>
<td>Not required</td>
<td>Personal unlimited liability</td>
<td>Very low</td>
</tr>
<tr>
<td>General Commercial Partnership (oHG)</td>
<td>Two partners</td>
<td>Not required</td>
<td>Personal unlimited liability</td>
<td>Low-moderate</td>
</tr>
<tr>
<td>Limited Partnership (KG)</td>
<td>Two partners: general partner and limited partner</td>
<td>Not required</td>
<td>General partner: personal unlimited liability Limited partner: limited share liability</td>
<td>Low-moderate</td>
</tr>
<tr>
<td>Corporate Partnership (GmbH &amp; Co. KG)</td>
<td>Two partners: general partner (GmbH) and limited partner (the general partner is typically the limited partner of the KG)</td>
<td>Not required</td>
<td>General partner (GmbH): personal unlimited liability Limited partner: limited share liability</td>
<td>Moderate-high</td>
</tr>
</tbody>
</table>
The main feature of a partnership is the personal commitment of the partners to their working efforts to the partnership. Any partnership requires at least two partners. There are four major forms of partnerships in Germany.

- Civil Partnership (Gbr)
- General Commercial Partnership (oHG)
- Limited Partnership (KG)
- Corporate Partnership (GmbH & Co. KG)

Their main difference lies in the liability of their partners and required registration obligations.

A partnership company (Partnergesellschaft or PartG) is a form of partnership specifically designed for the joint exercising of professional freelance activities, such as architects. This company form is not further explained on the following pages. Please contact us if you have questions concerning the establishment of a partnership company. For contact information please refer to the link on the right.

In contrast to corporations, partnerships are not independent legal entities but associations of people. In partnerships, the individual partners responsible for the liabilities of the company (including private assets) act for the company. Limitations of liability for individual partners are only possible to a limited extent.

No minimum share capital is required, and the accounting obligations and publication requirements are less extensive than those for corporations.

Establishing a partnership is easy and can be completed in just a few steps. At least two partners are required to establish a company. A minimum share capital does not have to be raised. The management of the company can only be carried out by partners.

Depending on the type of partnership, entry in the commercial register (Handelsregister) is required. The application is signed by all partners and must be filed by a German notary in certified and electronic form with the commercial register. If a business activity is carried out by the partnership, the trade office (Gewerbe- oder Ordnungsamt) must accordingly be notified.
The partnership itself is not taxed (as is the case with corporations), but the individual partners. The taxable profit is determined at the level of the company and allocated to the partners according to their shares. The partnership itself is only subject to trade tax.

The average tax burden on companies is less than 30 percent. In some regions of Germany, due to a locally variable rate of trade tax, it is under 23 percent. The tax rate to which a partner of a partnership is subject can be optionally adjusted to the tax rate of corporations.

**Civil Partnership (GbR)**

A civil law partnership (Gesellschaft bürgerlichen Rechts, GbR) is defined as an association of individuals or enterprises united in the achievement of a joint contractual purpose. It is suitable for start-ups launching a business idea in cooperation with others.

Formation of a GbR is fairly uncomplicated. At least two partners must agree on the establishment of the GbR and conclude a partnership agreement. A written partnership agreement is recommended, but is not compulsory. The partners are jointly liable with their private assets for debts incurred by the company. If the GbR conducts trade in the form of a small trade business, it has to register with the local trade office. It must not be entered into the commercial register.

A GbR is only allowed to conduct “small trade business.” As soon as it achieves an annual turnover of over EUR 250,000 and a profit over EUR 25,000 it is deemed to be a commercial business and must be entered in the commercial register upon which it automatically becomes a general commercial partnership (Offene Handelsgesellschaft, oHG).

**General Commercial Partnership (oHG)**

The general commercial partnership (Offene Handelsgesellschaft, oHG) is the classic partnership form for small and medium-sized enterprises (SMEs). Its structure corresponds to the civil partnership (GbR). Every GbR that runs a commercial enterprise (a business enterprise of a type or size requiring business operations to be set up in a commercial manner) automatically qualifies as an oHG. Accounting regulations for an oHG are stricter than those for a GbR.

In order to establish an oHG, two or more partners must conclude a partnership agreement. It is advisable for the partnership agreement to be made in writing. All partners are jointly and severally liable for the oHG’s debts and liabilities.

The oHG must be entered in the commercial register and registered with the local trade office. The application to the commercial register must be made by all partners and be certified and filed by a notary. The total expenses for registration vary, but generally a cost of approximately EUR 400 can be expected.
Limited Partnership (KG)

The limited partnership (Kommanditgesellschaft, KG) is a legal form related to the oHG, but with the option of limiting the liability of some of the partners. This legal form is suitable for medium-sized enterprises (SMEs) seeking additional start-up capital but wishing to limit individual responsibility.

At least one partner, the general partner (Komplementär), is personally liable without limitation. The liability of the limited partners (Kommanditisten) is limited to their respective share of the partnership capital. A KG offers greater flexibility compared to other forms of partnerships as the capital base can be increased by including additional limited partners.

A KG is established when a partnership agreement between two or more partners (including at least one limited and one unlimited partner) is concluded. It is advisable for the partnership agreement to be made in writing. The liability of the limited partner will only become limited once the registration of the KG and the subscribed partnership contribution has been entered in the commercial register (which is obligatory).

The application to the commercial register must be made by all partners and be certified and filed by a notary. The total costs for registration vary, but EUR 400 can be used as a general guideline. A KG must then be registered with the local trade office.

Corporate Partnership (GmbH & Co. KG)

The GmbH & Co.KG is a limited partnership (KG) in which the general partner (Komplementär) is a limited liability company (GmbH). The GmbH is fully liable for the GmbH & Co. KG’s debts and liabilities. The liability of the limited partners (Kommanditisten) is limited to their respective share of the partnership capital.

This hybrid form is suitable for entrepreneurs wishing to limit their liability while enjoying the flexibility of a non-incorporated business. Because of its flexibility, the legal form GmbH & Co. KG is especially appropriate for medium-sized businesses and family companies.

The GmbH & Co.KG is established through conclusion of a partnership agreement between the general partner and the limited partners (advisably in writing). Typically, the shareholders of the general partner (GmbH) are identical to the limited partners of the KG.

In line with the registration formalities of the KG, the GmbH & Co KG must be entered in the commercial register and registered with the local trade office. The liability of the limited partner will become limited once the KG and the subscribed partnership contribution are registered in the commercial register.

The application to the commercial register must be made by all partners and be certified and submitted by a notary. The total costs for registration vary, but EUR 400 can be used as a guideline value.
Branch Offices

Branch Offices: Quick Facts

<table>
<thead>
<tr>
<th>Legal/Establishment Form</th>
<th>Legal Liability</th>
<th>Minimum Capital</th>
<th>Number of Persons Required</th>
<th>Establishing Formalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Autonomous Branch Office (Selbstständige Zweigniederlassung)</td>
<td>Subject to the head office legal company form</td>
<td>None required</td>
<td>Minimum one person</td>
<td>Moderate</td>
</tr>
<tr>
<td>Dependent Branch Office (Unselbstständige Zweigniederlassung)</td>
<td>Subject to the head office legal company form</td>
<td>None required</td>
<td>Minimum one person</td>
<td>Very low</td>
</tr>
</tbody>
</table>

Any foreign company with a head office and registered business operations outside of Germany can establish a German branch office. A branch office is a suitable business form for a foreign company wanting to establish a presence in Germany for the purpose of initiating business and maintaining contacts with business partners.

In Germany, there are two kinds of branch establishments which primarily differ due to the degree of the independence from the head office company.

- Autonomous Branch Office
- Dependent Branch Office
- Representative Office

**MAIN CHARACTERISTICS**

A branch office has no independent or separate legal personality distinct from the head office itself. In legal and organizational terms, it is part of the head office business and is thus subject to the law governing the head office. In this context, the foreign head office company is fully liable to the extent of its own assets for any claims creditors might assert against the branch office. Any obligations or debts incurred by the branch office are also legal responsibility of the foreign company.

**TAXATION OF BRANCH OFFICES**

A branch office is subject to taxation in Germany if it is considered as a permanent establishment according to the applicable double taxation agreement (DTA). An autonomous branch office is generally regarded as a permanent establishment, whereas a dependant branch office is only ever considered a permanent establishment under certain conditions.

A German permanent establishment of a foreign corporation is taxed in Germany according to German taxation rules for corporations (corporate income tax, solidarity surcharge and municipal trade tax).
Autonomous Branch Office

The autonomous branch office (*selbständige Zweigniederlassung*) fulfills tasks that exceed mere implementation and support-related tasks. It is dependent upon the head office company at the internal level but engages in business activities independently. The relationships with the customer are subject to German law. However, the foreign head office company is liable for the business transactions concluded by the branch.

At the organizational level, autonomous branch offices are to a certain extent independent from the parent company and usually have the following attributes:

- Management with freedom to act according to their own judgement (i.e. with full power of attorney and power to contract)
- Own capital resources and bank account
- Separate accounting

An autonomous branch office can use its own name affix but the company name of the head office must also appear including its legal designation (for example: XY Ltd., branch office, Berlin).

Foreign companies can set up an autonomous branch office in Germany if they are entered in a foreign commercial register (or a comparable directory).

The decision to establish a branch office must be made by the managing directors of the head office. The autonomous branch office must be entered in the commercial register and registered with the local trade office.

The application for registration in the commercial register must include detailed information on the foreign company and generally be accompanied by a notarized copy of an excerpt of the commercial register showing the existence of the foreign company and the power of representation of the managing director(s) and the management board as well as from memorandum and articles of association. All documents should be in German certified translation and the notary’s certificate must be authenticated.

Due to the harmonized EC Law, the documentation effort for European companies is fairly modest. For non-European companies it can be extensive, the exact details depending on the foreign company’s residence. The application must be certified and submitted by a notary.

The autonomous branch office must be registered in the trade office before business operations are started. A business license or permit is generally not necessary for registering the business. Only for some business sectors, a permit or authorization may be required. Trade office registration must be submitted on commencement of business at the latest.

Dependent Branch Office

A dependent branch office (*unselbständige Zweigniederlassung*) is a subordinate department of the head office company and does not have any autonomy from it. It focuses on maintaining contacts and initiating business in Germany.
The dependent branch office is not able to independently participate in the general business transactions of the head office. It performs support and implementation-related tasks without having any individual business discretion and is entirely dependent on the head office.

Invoices have to be made out in the name of the head office company. An individual company name cannot be used.

As a dependent branch office displays no autonomy vis-à-vis the head office of the company, it is not entered in the commercial register. The only formal requirement for a dependent branch office is registration with the local trade office, for which certain documentation on the foreign company is also necessary.

Representative Office

Offices that purely serve to observe the market and pave the way for initial customer contacts are often described as “representative offices.” However, this term does not exist in German commercial law. A representative office must usually be registered as a branch office in Germany.

Only an office managed by a self-employed external business person (e.g. a commercial agent authorized by the company) can be considered a case in which no independent business activity is conducted on behalf of the foreign company. In this specific instance, registration with the local trade office is not required.

Business Registration

In the establishment phase of a company - and prior to assumption of commercial activities - a company only has to be registered in the public commercial register (Handelsregister) and the local trade office (Gewerbe- oder Ordnungsamt). The registration creates transparency and also offers companies the highest level of security in their day-to-day business activities.
Entry in the Commercial Register

The commercial register (Handelsregister) provides information about all relevant relationships between merchants and commercial companies. The information is public and can be viewed by other companies.

The commercial register contains information about:

- The company of the business
- The name of the partner(s) and/or the personally liable partner(s)
- The managing director or the executive of corporations
- The capital stock of companies
- Liability limitations of partners
- The issuing and revoking of the power of attorney
- The opening of insolvency proceedings
- The dissolving and ending of a company

Companies required to register are those which carry out a commercial business operation. This is determined by criteria such as the use of commercial accounting, annual turnover, capital resources and total number of employees. In general, with an annual turnover of over EUR 250,000 and a profit of EUR 25,000 it is assumed that a commercial business operation exists. In addition to this, as a rule, all status relevant actions of companies are subject to registration.

Small businesses, civil partnerships (GbRs), freelancers and dependent branch offices do not have to be registered in the commercial register.

The application for registration in the commercial register is electronically filed in publicly certified form by a notary to the responsible commercial register.

As a rule, with types of company in which the entry in the commercial register is part of the act of establishment, the possible limitation of liability of the partner(s) is only effective subsequent to the time of the entry in the commercial register. If business is carried out prior to this point in time, partners can be liable for any losses of the company with their private assets (especially the case with corporations).

The total cost of entry in the commercial register varies depending on the type of company. Costs incurred are made up of costs of the notarial certification and the fees charged by the
district court for entry and publication in the Federal Gazette (*Bundesanzeiger*). The cost for registration and publication in the commercial register for a partnership is currently EUR 250 minimum. For a GmbH, this amount is at least EUR 400, and for an AG at least EUR 500. Additional costs are incurred through the use of a notary.

The costs and fees are not levied on an arbitrary basis but are regulated by law. They largely depend on the number of partners and the share capital. Further costs can be incurred by the provision of additional legal advice.

The Federal Chamber of German Civil Law Notaries (*Bundesnotarkammer*) provides information about the exact composition and level of notary costs on its internet site. Here, companies can also find a German notary.

The commercial register is managed by the district court where it is open to public view at no cost. In addition to this, the register can also be consulted online through the common register portal of the German federal states (*Gemeinsames Registerportal der Länder*).

Some of the company data which is stored in the commercial register is also available electronically through the commercial register of the Federal Gazette (*Bundesanzeiger*).

**Trade Office Registration**

Before starting their business operations, every business operator must inform the trades (or regulatory) office (*Gewerbe- oder Ordnungsamt*) of the town or local district in which the business operation is located. This applies to every company regardless of its company form (except freelance professionals).

A business license or permit is not necessary for registering the business in the majority of cases. In some sectors, a permit or authorization might be required (e.g., pharmacies, property developers, estate agents, brokers, security firms, pubs and hotels or banks).
The registration of a business activity that does not require a license or permit costs between EUR 20 and EUR 40. Additional costs apply for companies that require a business license. Costs are depending on the sector the business is operating in. For the independent, non-industrial operation of certain trades (e.g. bakers, carpenters or precision makers) entry in the Register of Craftsmen (Handwerksrolle) is also required. The trades that are affected are listed in the Crafts and Trades Regulation Code (Handwerksordnung) where they can be consulted.

The trade office automatically sends a copy of the business registration to the responsible tax office (Finanzamt). This then sends a registration form to the company for tax registration purposes. In addition to this, it also sends the registration to the other relevant institutions such as the respective Employer’s Liability Insurance Association (Berufsgenossenschaft), the corresponding Chamber of Industry and Commerce (IHK) and, if required, the Chamber of Crafts (Handwerkskammer).

**Chambers of Industry and Commerce (IHKs) and Chambers of Crafts**

In Germany, the Chambers of Industry and Commerce (IHKs) and the Chambers of Crafts (Handwerkskammern) function as the local interest groups of business operators in a specific region. At the same time the chambers realize more than just the general functions of professional associations for their members. They also:

- Carry out active lobbying work by representing the interests of the company towards municipalities, state, and federal government;
- Organize vocational training by defining the framework requirements and approving interim and final examinations;
- Draw up certificates concerning, for example, admissible company names.

In addition to this, the IHKs also provide information about the local economic framework conditions in a region and provide foreign companies with business contacts to possible regional partners. All IHK members are also able to draw on the comprehensive advice and services of the responsible chamber. The chambers are generally the first point of contact in the event of day-to-day business problems.

Membership of the IHK or Chamber of Crafts is obligatory and occurs automatically on registration in the trade office without requiring special registration. The costs of membership of the chamber depend on turnover of the respective company.

The umbrella association of the German Chamber of Industry and Commerce, the DIHK (Deutscher Industrie- und Handelskammertag), offers an overview of all of the regionally responsible chambers on its website.

The German Chambers of Industry and Commerce IHK Finder

[www.dihk.de](http://www.dihk.de)
Transfering Assets

The Bank Account
It is advisable that anyone who runs a business in Germany also has a bank in Germany to quickly organize day-to-day business activities. Almost all large international banks have offices in Germany and it is also easy to have foreign currency accounts.

To open a private bank account you generally must have a valid passport and written confirmation that Germany is your current place of residence from the local Public Office (Bürgeramt). For a company bank account, the requirements depend on the legal form of the company. In addition to a valid passport you will generally need an excerpt from the commercial register and the articles of association of the company.

Capital
Capital can be moved in and out of Germany without any restrictions. However, amounts over EUR 12,500, or equivalent payments with valuables, must be reported to the German Central Bank (Bundesbank). These reports are for statistical purposes only. Forms can be obtained from the Bundesbank.

Reporting obligations for money transfers from abroad depend on the place of residence of the recipient/addresser: nationality is irrelevant. A person or company with a place of residence or business in Germany must report incoming and outgoing payments from abroad for all transactions over EUR 12,500. Alternately, an investor with a place of residence abroad does not have to register a capital transfer to an account in Germany (even if the investor is the account holder).

Payments for the import or export of goods and details in connection with the granting, taking out, or repayment of loans with an originally agreed term of less than twelve months do not have to be reported. For statistical purposes, every person living in Germany and every company located there must also inform the Bundesbank of the ownership of securities or deposit accounts abroad.

Receivables or liabilities from companies (for example, banks) or private individuals abroad must be reported to the Bundesbank if they amount to more than EUR 5 million or equivalent.

For bank account deposits of more than EUR 15,000 cash, banks are required to check the identity of the depositor in order to prevent money laundering.

Goods and Machinery
Goods and machinery can circulate freely within the EU. Customs, import turnover tax (Einfuhrumsatzsteuer), and in some cases, special excise taxes are charged for imports to Germany from non-EU states. The customs payable can be determined online using the TARIC (Integrated Tariff of the European Communities) system. Customs are not charged on investment goods if business operations have been transferred in full to Germany. For more information, please refer to the section on customs in chapter five.
Household objects can also be imported into Germany freely if the owner moves place of residence from abroad to Germany. A customs exemption of this kind must be applied for in writing beforehand.

**Business Premises**

**Finding Appropriate Business Locations**

Publicly owned industrial real estate for sale is administered by the state development agencies of the German states (Wirtschaftsförderungsgesellschaften der Länder).

The Federal Property Administration (Bundesanamt für Immobilienaufgaben) also administers publicly owned properties for sale.

**Institute for Federal Real Estate (in German only)**

[www.bundesimmobilien.de](http://www.bundesimmobilien.de)

**Things to Keep in Mind**

In addition, suitable business premises (for rental or for purchase) can be easily found via ads in daily regional newspapers, online markets, or from brokers.

There is often room for negotiation when purchasing real estate in Germany. As with elsewhere in the world, decisive price factors include location, equipment, building condition, financing costs, and any additional costs one might reasonably expect to incur. There are certain fees incurred when renting, purchasing or building real estate. Please see the table below for an overview of additional costs occurring when purchasing real estate.

When purchasing real estate, the expert advice of a real estate specialist should be sought prior to conclusion of the purchase agreement. This is because the purchaser’s rights regarding defects of the sale object are typically restricted when purchasing second hand real estate. Accordingly, the buyer can, when the purchase agreement already has been concluded, only in exceptional cases assert a claim - for example, in cases where the seller has failed to disclose essential defects.
### Exemplary Costs Overview when Purchasing Real Estate

<table>
<thead>
<tr>
<th>Fee for</th>
<th>Percentage</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agent’s commission (for developed or undeveloped land)</td>
<td>5–6%</td>
<td>EUR 5,000 – 6,000</td>
</tr>
<tr>
<td>Appraisal costs</td>
<td></td>
<td>Approx. EUR 1,000 – 1,400</td>
</tr>
<tr>
<td>Surveyor’s office (if buildings have not yet been constructed)</td>
<td></td>
<td>Approx. EUR 3,000 – 5,300</td>
</tr>
<tr>
<td>Notary fees</td>
<td>1%</td>
<td>EUR 1,000</td>
</tr>
<tr>
<td>Court and land register</td>
<td>Approx. 0.3%</td>
<td>EUR 300</td>
</tr>
<tr>
<td>Real estate transfer tax</td>
<td>3.5%</td>
<td>EUR 3,500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>Approx. EUR 13,800 – 17,500</strong></td>
</tr>
</tbody>
</table>

* exempt for the cities of Berlin and Hamburg where the tax rate amounts to 4.5%
3 Financing Investment Projects in Germany

Equity
Debt Financing
Mezzanine
Off-Balance Financing
There are different models for financing investment projects, all of which include different instruments and sources of funding. But all of these models hinge upon two basic questions: First, do current business activities cover the investment or are outside sources necessary? And second, what form will best fit the project’s needs - equity or debt? Are there alternative options?

**Equity**

When financing investment projects, possible financial partners usually require a share of equity of at least 20 to 30 percent. In most cases, start-ups have to rely solely on financing through equity.

Equity can result from a company’s own business activities or is acquired by finding new shareholders. Most commonly capital is then raised through:

- Business Angels
- Venture Capital
- Private Equity
- Initial Public Offering (IPO) which is the first public sale of shares on the stock exchange by a private company

With the provision of money, shareholders usually acquire certain company rights which can range from controlling and participating rights to a share of profits.

Apart from these equity forms, money resulting from public funding to promote investment projects in Germany (usually in the form of cash incentives) is also considered equity by financial partners.

**Business Angels**

Business angels are wealthy individuals, often self-made and with considerable business background and industry expertise, who allocate some of their resources to invest knowledge and seed money in new ventures.

During a company’s seed phase, business angels are often the only source of external financing for a project. For first-time entrepreneurs and young companies, it is almost always easier to raise money through angels than it is through traditional venture capital firms.

This start-up support provides the entrepreneur with enough capital to fund initial product development and sales so that the company can later raise additional capital through other sources.

Business angels also often act as mentors by tapping into an extensive, worldwide network to help finding customers and other business partners for an investment project.

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German BAND Business Angels Netzwerk Deutschland e.V. (in German only)
[www.business-angels.de](http://www.business-angels.de)
**Venture Capital**

Venture capital (VC) is often required for the financing of high-tech, high-risk projects. VC is provided by VC companies who manage funds from private, institutional, and public investors.

Generally, VC fund investors accept a higher risk of failure than is normally the case for other more conservative investments. This is because young companies rarely have significant assets or revenue history. In return for taking on this risk, VC companies expect to recoup their investment as a result of increased market potential resulting from a perceived unique selling proposition.

VC participation is limited to a specified period of time, at the end of which the VCs "cash out" by selling their shares and realizing profit at a margin of between twenty to thirty percent. These shares are usually sold as part of an “initial public offering” (IPO) - the first sale of stock by a company to the public. Where an IPO is unrealistic or holds little promise, VC companies can realize their shares through a so-called “trade sale”: the selling of shares to another company.

Companies can approach VCs directly to apply for VC money. In Germany, the appropriate financial partner can be found through the German Private Equity and Venture Capital Association (Bundesverband Deutscher Kapitalbeteiligungsgesellschaften e.V., BVK). Special conferences and events like the German Equity Forum (Deutsches Eigenkapitalforum) provide an opportunity for young enterprises to come into direct contact with VC companies.

**Private Equity**

Private equity is privately traded capital provided by private equity companies financed by institutional funds (e.g. pension funds) and private investors. As a broader term it also comprises venture capital.

Private equity, in the literal sense, is an appropriate instrument for established and growing companies. Private equity firms usually concentrate on companies with a sales threshold in excess of EUR 20 million. For deals above EUR 50 million, the market proves highly competitive.

Like venture capital companies, private equity companies provide funding to a company for a fixed period (usually three to seven years). The participation of a private equity firm is often concluded by a trade sale (i.e. the selling of shares to another company).

The German Private Equity and Venture Capital Association (Bundesverband Deutscher Kapitalbeteiligungsgesellschaften e.V., BVK) and the German Equity Forum
(Deutsches Eigenkapitalforum) are good starting points for identifying the appropriate private equity partner.

Initial Public Offering (IPO)

The IPO is the first time a company approaches the public capital market to finance its business by selling shares at the stock exchange. IPO provides the right option for companies wishing to avoid dependency on a select few private investors.

There are two ways to gain access to capital markets in Germany:

- The Regulated Unofficial Market or Open Market (Freiverkehr), offers an appropriate first entry point for small or recently founded companies.
- The Regulated Market (Amtlicher Markt), governed by EU regulations, requires higher entry, reporting, and transparency standards.
Cash Incentives

Investors can call upon a wide range of public funding in Germany. There is a large selection of programs available which are designed to support business activities at all stages of the investment process.

One of the main instruments are cash incentives usually provided in the form of grants. Promotion rates can account for up to 50 percent of investment costs. They are usually regarded as equity by financial partners.

Other public funding instruments, such as interest reduced loans, are usually debt oriented.

Debt Financing

Debt financing is a central financing resource and the classic supplement to equity financing in Germany. It is available for day-to-day business (working capital loans), can help bridge temporary financial gaps (bridge loans) or finance long-term investments (investment loans).

The main differences in comparison to equity financing are:

- Time limit
- Payment of interests and amortization unlinked to the earnings trend
- No transfer of shares to the creditor
- No liability of the creditor
- Preferred repayment in case of insolvency

Debt is mainly provided by banks. In Germany, universal banks offer the whole range of financial services. In addition, there are also special banks focusing on specific products or clientele.

Investment Loans

The main debt financing instrument for a project is the investment loan. The preferred loan duration is seven years with a one year repayment holiday (1+6); the usual maximum period is ten years with a two year repayment holiday (2+8). Interests are charged on an annual or semi-annual basis.

Creditors, mainly banks, always require securities against a risk of default of payment. Fixed assets will usually serve as the first source of security. Inventory and receivables can be used as collateral - primarily for working capital facilities. As well as the above-mentioned sources of collateral, shareholder guarantees (recourse) are often required as a means of reducing the bank’s credit risk.

Bridge Loans

Bridge loan financing becomes necessary when a company has to bridge a deferred financial inflow, which usually results in a financial gap. Generally, such gaps follow from having to pre-finance orders, or from time-shifted payments of incentives.
Interest rates for bridge loans are favorable because the company assigns the claim to the bank.

**Working Capital Loans**

Working capital loans, including overdraft facilities, provide liquidity for day-to-day business activities. They finance the stock of goods and reserve stock, payment deadlines, and the exploitation of supplier discounts.

Working capital loans are adapted per annum. The interest rates depend on the level of loan utilization and the period of usage. The level of the overdraft amounts to a certain percentage of the net working capital.

**Credit Rating**

The availability of debt depends on the default risk of a company or an investment project. This is usually determined through a credit rating of the debtor. Banks conduct these ratings themselves or require external ratings from private rating agencies.

The creditor “grades” the debtor according to a set of certain criteria. The procedure results in an investment grade describing the risk associated with the company or project and determining the margin associated with that risk. Accordingly, pricing is determined risk adequate. For companies receiving a so called non-investment grade credit rating, debt financing is usually not available.

Although rating criteria are more or less the same, each bank has its own rating process, where all financial data (e.g. annual financial statements, liquidity, financial structure) and qualitative factors (e.g. balance sheet policy, market potential, management, economic framework) are analyzed.

A company applying for debt has to be aware that this financial instrument deteriorates its equity ratio which may worsen the credit rating for subsequent financing.
The German “Hausbank” Concept

The Hausbank (literally “house bank”) concept is unique in Germany and refers to a company’s primary banking institution. This term is derived from the longstanding tradition of companies in Germany having a strong financial relationship with one particular bank.

In addition to lending and corporate financing, the Hausbank supports the day-to-day business activities of a company through electronic and international banking services, receivable management, and treasury activities. Special services include rating, advisory, and application support for public funding.

Today the importance of having one specific Hausbank has begun to diminish in Germany; particularly for larger companies who often prefer a relationship with several banks or to secure financial support through a consortium.

Nevertheless, the Hausbank still plays an important role with regard to the procurement of public funding. During the application procedure, authorities require a signed bank statement stipulating total project financing. From this point onward, the bank is responsible for administering incentive payments and reporting requirements. Should the company require a public guarantee, the bank acts as the applicant.
The Hausbank does not need to be a German bank. For financing purposes, and for practical reasons, a subsidiary of a foreign bank in Germany is sufficient. For all incentive-related tasks and services the bank must be German or have at least a German subsidiary and has to be accredited by the German government (as is generally the case for most banks).

**Financing by a Consortium**

Financing by a consortium refers to the participation of several banks in structuring a financing package. Usually one of the banks acts as the lead arranger and serves as the primary negotiation partner of the company. The other banks, known as underwriters, are invited by the lead arranger to participate in financing.

Financing by a consortium, also known as syndication, entails combining loans with different terms and conditions from multiple banks (known as a syndicated loan). The result is structured financing with fixed terms and conditions. The portfolio can consist of:

- typical amortizable loans
- loans being repaid at the end of maturity
- mezzanine capital
- working capital facility

Financing by consortium has the advantage of stability and flexibility over single bank financing, but can also result in potentially higher margins, complexity, and a longer approval waiting time.

**Corporate Financing vs. Project Financing**

When a company applies for a loan at a bank, the bank first of all has to determine who is liable for paying interest, amortization and providing securities. Based on this, the bank generally makes a distinction between corporate financing and project financing.

Corporate financing requires the payment of interest and amortization by the company itself. The credit rating focuses only on the company, its repayment history, and its ability to earn profit.

Project financing is based upon a more complex financial structure. Generally, a special purpose entity is created for each project, which shields other assets owned by a project sponsor in case of failure - particularly if the project company is considered to have no assets other than the project.

Hence, project financing is preferred if project sponsors wish to significantly reduce their liability or if a young company is not able to produce a sufficient repayment and profit earning history. Risk identification and allocation is an essential element of project financing. The possibilities for minimizing risks and thus increasing the chances of securing financing are greater when:
• dealing with established technologies;
• a large or growing or sufficient market for the products or services can be identified;
• contracts with customers and suppliers exist;
• robust projected cash flows from the investment can be expected, determined through massive stress testing;
• an experienced management team with the relevant technological and commercial skills is in place.

**Mezzanine**

Mezzanine capital is a broad financial term that refers to unsecured, high-yield, subordinate debt or preferred stock. Mezzanine capital represents an intermediary between equity and debt in a company’s balance sheet.

Due to increased credit risk, mezzanine capital is a relatively expensive source of company financing. For this reason, it is most appropriate for financing growing companies with high profitability.

One reason a company might prefer mezzanine capital is to maintain its equity-ratio, as even loan-oriented mezzanine instruments are often valued as commercial equity.

Mezzanine capital is mainly offered by banks, especially when it comes to debt-related products. In return, private equity firms focus on equity-related instruments.

**Mezzanine Capital as Equity or Debt**

Different forms of mezzanine capital are classified as equity or debt according to three factors:

1. **Duration of the Capital Commitment**

   The duration of the capital commitment should be unrestricted or at least long-term for consideration as equity. Generally the spread of the maturity for the mezzanine capital is between five to ten years.

2. **Liability and Loss-Sharing**

   The loss-sharing is one of the major factors for the assessment of equity. In case of insolvency equity-oriented mezzanine investors usually participate on losses, whereas debt mezzanine is only subordinated.

3. **Conditions of Compensation**

   Compensation for mezzanine investment comprises a fix current interest payment and participation on the generated profit and growth. A mezzanine instrument is rather equity than debt if the compensation is flexible, dependant on profit and takes part on the performance of the company.
The following chart illustrates several forms of mezzanine capital and their respective categorization as either debt or equity. Variations may occur due to the different accounting rules such as International Financial Reporting Standards (IFRS) and German Accounting Rules (Handelsgesetzbuch - HGB).

<table>
<thead>
<tr>
<th>Mezzanine forms</th>
<th>Taxable Debt</th>
<th>Equity on the Balance Sheet</th>
<th>Control Rights</th>
<th>Duration in Years</th>
<th>Liability in Case of Insolvency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subordinated Loans</td>
<td>Yes</td>
<td>No</td>
<td>Restricted to creditor’s rights</td>
<td>3–10</td>
<td>None</td>
</tr>
<tr>
<td>Silent Partnerships (typical)</td>
<td>No</td>
<td>Yes</td>
<td>Depending on contracts</td>
<td>5–10</td>
<td>Depending on contracts</td>
</tr>
<tr>
<td>Convertible Bonds</td>
<td>Before</td>
<td>After</td>
<td>Restricted to creditor’s rights</td>
<td>at least 1</td>
<td>Yes</td>
</tr>
<tr>
<td>Preferred Stocks</td>
<td>No</td>
<td>Yes</td>
<td>Mostly not, but possible in exceptional cases.</td>
<td>3–10</td>
<td>Yes</td>
</tr>
<tr>
<td>Silent Partnerships (atypical)</td>
<td>No</td>
<td>Yes</td>
<td>Approval and control rights</td>
<td>5–15</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Example: Silent Partnership

In Germany, one of the classical forms of mezzanine financing is the silent partnership. The silent partner contributes a share of the capital and obtains a share of the profit in return. The participation in losses is typically limited to the capital contribution.

There are two main types of silent partnership. The typical silent partnership and the atypical silent partnership:

- The typical silent partner does not influence the management of the company and expects a minimum rate of return on a regular basis (usually yearly).
- By comparison, participation in management and risk is an inherent part of the atypical silent partnership, and for this reason, the atypical silent partner demands an extraordinary return.

The typical silent partnership is widely used in public funding. In Germany, public venture capital companies (Innovations- und Technologiebeteiligungsgesellschaften) or public-private equity enterprises (Mittelständische Beteiligungsgesellschaften) take minority shares in technological ventures or growing small or medium-sized enterprises (SMEs).

Example: Subordinate Loan

The subordinate loan, also known as a junior tranche, is a debt instrument that takes a lower repayment priority than the normal debt provided by lenders. In the event of payment default, the repayment is subordinated and all other lenders are repaid in the first instance.
Subordination also refers to the payment of amortization and the provision of securities. With regards to securities, subordination means that banks do not require collateral for these loans. However, the advantages over normal debt for the creditor are combined with a higher risk for the bank. These risk factors must be covered with a higher margin, which means higher interest rates for the borrower.

**Off-Balance Financing**

Off-balance financing (also referred to as alternative financing) comprises financial instruments that affect only the profit and loss account of a company and not the balance sheet.

A company chooses off-balance financing in order to reduce strains on liquidity and capital lockup. This enables the company to maintain the equity ratio, avoiding a degradation of its credit rating. In return, it has to accept higher total costs in comparison to financing on-balance.

**Leasing**

Leasing, especially operating lease, is the most widespread form of off-balance financing in Germany. Leasing is provided by general leasing companies or companies who specialize in financing particular goods.

Various interpretations of the term “leasing” exist in different sets of accounting rules, for example, in the International Financial Reporting Standards (IFRS) and in the German Accounting Rules (*Handelsgesetzbuch, HGB*).

To qualify as off-balance financing, the financing measure must be an operating lease. An operating lease is usually a short-term financing instrument in which the ownership and risk stay with the lessor. The lessee pays an expense fee comprised of interest and remuneration for depreciation. Other forms of leasing and their activation in the balance sheet are shown in the following illustration.
Leasing as an Alternative Financial Tool

<table>
<thead>
<tr>
<th>LEASING CONTRACTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finance Lease</td>
</tr>
<tr>
<td>Operating Lease</td>
</tr>
<tr>
<td>Manufacturer’s Lease</td>
</tr>
<tr>
<td>Special Lease</td>
</tr>
<tr>
<td>Sale and Lease-back</td>
</tr>
</tbody>
</table>

- The LO\(^1\) provides the LE\(^2\) with the right of use for a certain good
- Usually for a short-to-mid-term duration
- Agreement risks and warranties are borne by the LE
- Fees differentiate between full amortization and partial amortization schedules
- Ownership of the equipment stays with the LO
- Agreement risks and warranties are borne by the LO
- Usually short-to mid-term duration
- The LE usually classifies the payment as an operating expense
- Leasing of goods on behalf of the manufacturer (e.g. IBM)
- Available as finance or operating leases
- The leased good is tailor made for the LE’s needs
- Thus the leased object is usually activated in the LE’s balance sheet
- A business sells already purchased equipment to a leasing company
- The leasing company, which then takes ownership of the equipment, leases it back to the business

Note: \(^1\) LO – Lessor, Hirer; \(^2\) LE: Lessee, Renter

More information on leasing in Germany is provided online by the German Association of Leasing Companies (*Bundesverband Deutscher Leasing-Unternehmen*).

Factoring

Factoring is a process in which a company sells its receivables in order to immediately obtain cash for liquidity. Special financial institutions called factors provide this advanced financing at a discount. The factor secures the payment and offers protection against default by the creditor.

Over the past decade, factoring has gained importance as an internal source of financing in Germany. Banks in particular insist that companies sell receivables from goods or services as soon as possible. Since factoring is an optimization of cash management, it cannot be used to finance larger projects.

German Factoring Association

[www.factoring.de](http://www.factoring.de)
4 Incentive Programs

Incentives at a Glance
Public Loans
Labor-Related Incentives
R&D Incentives
Germany offers numerous incentives for foreign investors. There is a variety of programs available, designed to fit the needs of diverse economic activities at different stages of the investment process. Support ranges from cash incentives to labor-related, and incentives for research & development (R&D). Find out how your investment project can benefit from public funding.

**Incentives at a Glance**

**Providing Funds**

Germany offers numerous incentives to all investors - regardless of whether they are from Germany or not.

Funds are provided by the German government, the individual federal states, and the European Union (EU). These are predominantly aimed at new investments geared towards fostering economic growth.

Germany has EUR 26.3 billion funding provided by the EU (co-financed using means obtained from German national and regional budgets) at its disposal until 2013. In addition, Germany and its individual states make their own incentives funds available.

**Incentives Programs in Germany**

There are a number of incentives programs available which can be grouped into two overall packages:

- the investment incentives package with different measures to reimburse investment costs
- the operational incentives package to subsidize expenditures after the investment has been settled

Each package consists of a different number of programs, ranging from cash incentives for the reimbursement of capital expenditures to incentives for research and development (R&D).

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**Incentives**

- **Investment Incentives Package**
  - Cash Incentives
  - Investment Grant
  - Investment Allowance\(^1\)
  - Interest-reduced Loans
  - KfW Loans (National Level)
  - State Development Bank Loans
  - Public Guarantees
  - Combined state/federal

- **Operational Incentives Package**
  - Labor-related Incentives
  - Recruitment
  - Training
  - Loans
  - Wage subsidies
  - R&D incentives
  - Silent/direct partnership

\(^1\)Only in Eastern Germany
Determining Eligibility

Each incentives program defines industries as well as forms of investments (e.g. green-field projects or expansions) eligible for funding. Foreign investors are subject to exactly the same conditions available to German investors.

Each program has a set of criteria (such as company size, planned investment project location, etc.) which determine individual investment project incentive levels.

EU Criteria Determining Company Size

Company size is generally determined according to an EU-wide classification system in which companies are categorized as being small, medium-sized or large according to their staff headcount, annual turnover or annual balance sheet total.

The size of a company is an important criteria to determine the possible incentives level a company may receive. Most incentives programs offer the highest incentives rates to small and medium-sized enterprises (SMEs). Some programs may even specifically target SMEs (this is very often the case with R&D programs).

<table>
<thead>
<tr>
<th>Enterprise Category</th>
<th>Staff Headcount</th>
<th>Annual Turnover</th>
<th>Annual Balance Sheet Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small Enterprise (SE)</td>
<td>&lt; 50</td>
<td>≤ EUR 10 million</td>
<td>or ≤ EUR 10 million</td>
</tr>
<tr>
<td>Medium-Sized Enterprise (ME)</td>
<td>&lt; 250</td>
<td>≤ EUR 50 million</td>
<td>or ≤ EUR 43 million</td>
</tr>
<tr>
<td>Large Enterprise (LE)</td>
<td>≥ 250</td>
<td>&gt; EUR 50 million</td>
<td>or ≥ EUR 43 million</td>
</tr>
</tbody>
</table>

The criterion concerning the headcount is compulsory. In addition, either of the annual turnover or the balance sheet criteria must also apply. Please refer to the explanation of the European Commission for more information.

SME Definition of the European Commission
http://ec.europa.eu

Regional Economic Development Program North Rhine-Westphalia

In addition to the development programs of the EU and the German government, North Rhine-Westphalia has established its own investment incentives for the creation and securing of long-term jobs and training positions in the structurally weak regions of the state with its Regional Economic Development Program (RWP). The RWP grants are intended for industrial investments which create or secure jobs.

Promotion is provided primarily for supraregionally operating companies: Small and medium-sized enterprises (SMEs) are subsidized provided that
• they have fewer than 250 employees,
• their annual sales do not exceed € 50 million or their balance sheet total is not more than € 43 million, and
• they do not exceed these limits by including participations or partnerships (EU checking procedure),
• and large enterprises managed along SME lines.

In individual cases, other large enterprises can also be subsidized, with the maximum subsidy lying at € 2.5 million.

The development areas include large parts of the Ruhr region, Mönchengladbach and the districts of Heinsberg, Herford, Höxter and Lippe.

The companies receive grants up to 28 percent of the investment sum. The maximum invested amount eligible for subsidy per newly created jobs is € 500,000 (per secured job € 250,000). Applications should be submitted to NRW.INVEST or NRW.BANK.

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of the German State of North Rhine-Westphalia
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Phone: +49 211 13000-0
Fax: +49 211 13000-154
E-Mail: nrw@nrwinvest.com

NRW.BANK
Advice Center Rhineland
Kavalleriestraße 22, D-40213 Düsseldorf
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Fax: +49 211 917419219

Branch Office of NRW.BANK in Münster
Advice Center Westphalia
Friedrichstraße 1, D-48145 Münster
Phone: +49 251 917414800
Fax: +49 251 917412666
www.nrwbank.de
Public Loans

Investors can access publicly subsidized loan programs in Germany. These programs usually offer loans at below current market value interest rates in combination with attractive grace periods. These loans are provided by so-called development banks: publicly owned and organized banks which exist at the national and state level.

Each financial tool or program offered by such banks is accessible to foreign investors and subject to the same conditions available to investors from Germany.

Investors profit from interest-reduced loans as they are a means of acquiring capital in a cost effective way during the investment phase, thus easing financial long-term planning. Small and medium-sized enterprises (SMEs) in particular can profit from interest-reduced loans.

Loan Programs of the European Investment Bank (EIB)

At the European level, the European Investment Bank (EIB) finances investment projects in cooperation with private banks. The EIB provides loans below general market conditions, offers long-term repayment periods, and is a host of other favorable conditions. It specializes in large investment projects.

To receive support, projects must be viable in four areas:

- Economics
- Technology
- Environment
- Finance

The EIB only finances projects contributing to the EU’s general economic policy objectives - enhancing the development and integration of economically weaker regions and building up the general structure of the EU as a business location. The EIB acts as a financial partner until the investment project is completed. Loans are granted to projects in both the public and private sectors. EIB loan programs are open to large enterprises as well as SMEs. As a rule, the EIB lends up to 50 percent of investment project costs.

The main financing tools are intermediated loans. Credit lines to banks and financial institutions help them to provide financial means to SMEs with eligible investment programs or for projects costing less than EUR 25 million.

EIB Loan Programs for Investment Projects

www.eib.org
German KfW Banking Group Loan Programs

The KfW Banking Group (Kreditanstalt für Wiederaufbau, KfW) is the nationally operating development bank of the Federal Republic of Germany. It makes available a number of different financing tools such as promotional loan programs, mezzanine financing, and private equity.

The KfW is organized into different departments - each specialized according to different target groups and available financing tools.

The most important institution for investment project financing is the KfW Mittelstandsbank which offers a number of loan programs for investment projects including the Entrepreneur Loan (Unternehmerkredit) and Entrepreneur Capital (ERP Unternehmerkapital).

KfW Entrepreneur Loan (Unternehmerkredit)

www.kfw.de/

The KfW is usually contacted via the applicant’s private bank which normally complements its own financial package using the range of KfW financing tools available. Investors should have a German bank or a subsidiary of their domestic bank in Germany to ease the KfW loan application process.

State Development Bank Loan Programs

In addition to the KfW, each German state has its own development bank financing projects within the respective state. They offer own loan programs, especially targeted at start-ups and growing companies.

Compared to KfW programs, state development bank loans are generally tailored to meet the requirements of small and medium-sized enterprises (according to the EU Commission’s SME definition).
Loans are collateralized with the usual securities. Applications are made through the investor’s private bank to the respective state development bank. Interest reduced loans constitute a subsidy and can usually be combined with other public funding. Please be aware, that the total amount of cash incentives available may be reduced when combined with other programs.

**Labor-Related Incentives**

Labor-related incentives play a significant role in reducing the operational costs incurred by new businesses. Germany’s Federal Employment Agency (Bundesagentur für Arbeit) and the German states offer a range of labor-related incentives programs designed to fit the different company needs when building a workforce. The range of programs offered can be classified into four main groups: programs focusing on recruitment support, training support, wage subsidies, and on-the-job training.

Labor-related incentives are available throughout Germany; independent of factors such as company size, industry sector, or investment project location. Programs can be carried out and adjusted by local authorities according to investor needs - usually in close cooperation with the investor.

**Time Frame for Labor Related Incentives**

<table>
<thead>
<tr>
<th>Stages of Building a Workforce</th>
<th>Finding Suitable Staff</th>
<th>Testing Candidates</th>
<th>Hiring Employees</th>
<th>Maintaining Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Available Incentives</td>
<td>Recruitment Support</td>
<td>Pre-Hiring Training</td>
<td>Wage Subsidies</td>
<td>On-the-Job Training</td>
</tr>
</tbody>
</table>

**Matching Personnel: Recruitment Support**

With over 800 local job centers located throughout Germany, the Federal Employment Agency assists companies in finding new employees. Regardless of the qualification or experience level required, the job centers offer highly competent and professional services as well as market expertise to help identify prospective employees in all sectors.

Assistance provided covers everything from job vacancy advertising and preselection of candidates (i.e. assessment centers) to the provision of facilities for holding job interviews. Because the job centers are governmental institutions, all services are provided entirely free of charge.

**Enhancing Qualification Measures: Training Support**

Prospective employees often need to participate in appropriate training measures before operating machinery and technical equipment. Such measures can be organized and administered by external specialist institutions. In general, the costs for
training programs of this nature can be covered by up to 100 percent by regional program managing authorities.

Supporting Integration: Wage Subsidies
Wage subsidies aim at helping job seekers experiencing difficulties securing work (e.g. as a result of long-term unemployment). Employers can be granted a direct cash payment paid as a proportion of the employee’s wage. Grants can account for up to 50 percent of wage costs including social benefits. They may be granted for a period of up to twelve months.

When hiring long-term unemployed people who have disabilities or who are older, wage subsidies can be raised to a maximum 70 percent of wage costs paid for a period of up to 96 months. Wage subsidies are generally allocated if investors provide long-term employment contracts. Note that wage subsidy applications should be made in advance of the work contract being signed.

Advancing Professional Development: On-The-Job-Training
The German states and the European Social Fund (ESF) offer a variety of on-the-job training programs. Companies can be supported with subsidies covering up to 50 percent of all training costs. Authorization by the European Union (EU) is required if the amount awarded to a single company exceeds EUR two million.

R&D Incentives
Research and development (R&D) is considered to be amongst the most important areas for the development of the German economy. Industry and the public sector have made a commitment to spend around three percent of national GDP per year on R&D activities. This amounts to approximately EUR 70 billion R&D spending each year.

Different Types of R&D Incentives
R&D projects can count on numerous forms of financial support. There are many programs allocating R&D grants, interest-reduced loans, and special partnership programs. Financing is provided by the European Union (EU), the German government, and the individual German states.
R&D incentives programs generally provide money for R&D project personnel expenditure. Other costs for instruments and equipment may also be eligible if they can be clearly assigned to the relevant R&D project (if such instruments and equipment are used beyond the lifetime of the R&D project, only the depreciation costs for the duration of the R&D project are considered eligible).

How to Profit from Public R&D Spending
To participate in R&D funding programs, companies must define an R&D project with clear objectives and a fixed timeline. The project application should highlight the innovative character of the project and the technological risks involved.

An application for R&D funding also has to set out a commercialization plan, detailing how research results will be transformed into products, processes or services which generate additional turnover and/or employment in the region where the R&D project is located. The total amount of incentives a project may receive depends on the size of the company (small, medium-sized, or large), whether the project is conducted in cooperation with other companies or research institutes, and the research category of the project. The research category expresses the scope of the intended project.

Research Categories
There are three basic research categories:

- fundamental research (experimental or theoretical work aimed at gaining new knowledge)
- industrial research (research with a specific practical objective aimed at improving existing products, processes, or services)
- experimental development (research aimed at producing drafts, plans, and prototypes)
EU R&D Grants

Seventh Research Framework Program

At the European level, financial support for R&D projects is offered by the 7th Research Framework Program (FP7).

Support is allocated in the form of grants covering up to 75 percent of project expenditures for SMEs. FP7 will run until the end of 2013.

Budget and Research Fields

FP7 is the world's largest research funding program with a total budget of more than EUR 50 billion, the majority of which is allocated to ten research fields:

- Health
- Food, agriculture and fisheries, biotechnology
- Information and communication technologies
- Nanosciences, nanotechnologies, materials and new production technologies
- Energy
- Environment (including aeronautics)
- Socioeconomic sciences and the humanities
- Space
- Security

FP7 support is usually provided to R&D projects operating on a transnational level with different project partners.

Application Process

Applications are submitted in the form of a proposal by all transnational project partners (so-called “consortium”). The EU usually issues a call for proposals announcing the research area, eligibility guidelines, and the available budget.

R&D Grants in Germany

The High-Tech Strategy

All research programs financed by the German federal government are concentrated within the federal High-Tech Strategy.

The High-Tech Strategy defines specific industry sectors with a high dependency on constant high-tech research and development. Each defined industry sector consists of a number of different R&D programs.
Budgets and Research Sectors

Approximately EUR 4 billion yearly is reserved for R&D projects in the form of non-repayable project grants. Grant rates can reach up to 50 percent of eligible project costs. Higher rates may be possible for SMEs. Cooperation between project partners, especially between enterprises and research institutions, is usually required.

Application Process

The federal government periodically calls for R&D project proposals for specific research topics followed by a competition of best project ideas. A specific funding scheme called “KMU-innovativ” focuses on the participation of SMEs in some of the High-Tech-Strategy’s industry sectors. Funding applications within the framework of the “KMU-innovativ” scheme are possible on an ongoing basis and are not connected to a specific research topic.
German Federal State Funding

In addition to programs run by the federal government, each German state has R&D grant programs - generally targeted at SMEs - in place. Some states put particular focus on specific industry clusters but programs without specific technological focus also exist. Cooperation between project partners is not always necessary.

Further Subsidy Options

Public R&D Loan Programs

R&D loans can be an alternative to R&D grants and entail several specific advantages: they are not usually attached to a specific technology field, application is possible at all times (no deadlines), and they can cover higher project costs.

R&D loans are provided by different governmental programs. For instance, the ERP Innovation Program offers 100 percent financing of eligible R&D project costs up to EUR five million.

Public Partnership Programs

Public (silent) partnerships are offered by both, the KfW Banking Group and state-owned venture capital companies to technically oriented companies. Direct shareholding by a public investment company is also possible. Conditions are negotiated on a case-by-case basis.

NRW.BANK Development Programs

NRW.BANK offers a wide range of financial support for business start-ups and to ensure company survival: investment grants, subordinated loans, venture capital, and releases from liability.

NRW.BANK Start-Up Loan: Business founders can be supported with loans ranging from 25,000 to 5 million euros. The financing portion may amount to up to 100 percent of the eligible investment costs or working capital. The acquisition of land and buildings as well as furniture and fixtures and the takeover of existing SMEs are also eligible for funding. The NRW.BANK start-up loan is offered with terms of five, ten or twenty years. The start-up loan includes an optional indemnity bond from the Bürgschaftsbank NRW, for which business founders may apply as part of a standardized process.

NRW.BANK SME Loan: This is a low-interest loan from NRW.BANK to finance business start-ups, small and medium-sized enterprises, and independent professionals. The NRW.BANK SME Loan is available as both an investment loan and a working capital loan. The amount of the loan can range from 25,000 to 5 million euros. This promotion program is offered jointly by NRW.BANK and KfW.
NRW.BANK
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www.nrwbank.de
5 The Tax System

- Company Taxation
- Taxation of Property
- Value Added Tax
- Tax Deductions
- The Tax Return
- Customs
Germany has reformed its system of company taxation. Several changes reduce the average tax burden for corporations and the trade tax burden for all businesses. “Tax neutrality” has been established, treating partnerships and corporations equally when it comes to taxation. Read more about tax and customs issues in Germany in the following chapters.

**Company Taxation**

Companies in Germany are usually taxed on two levels.

On the first level, corporations - such as the stock corporation (AG) and limited liability company (GmbH) - are subject to corporate income tax (Körperschaftsteuer), whereas partnerships are subject to personal income tax (Einkommensteuer). Both taxes are levied by the federal government.

On the second level, all business operations - corporations and partnerships alike - are subject to the trade tax (Gewerbesteuer), which is imposed by local municipalities (i.e. the town or city where the company is based).

Our model calculation shows how the overall tax burden for corporations and partnerships is determined.

**Corporate Income Tax for Corporations**

Corporate income tax (Körperschaftsteuer) applies to all corporations such as the limited liability company (GmbH) or the stock corporation (AG).

On January 1, 2008, Germany’s reform of company taxation came into effect reducing the tax burden for all companies.

The reform’s core element is a nearly one-quarter reduction of the average tax burden for corporations. The standard corporate income tax rate has been reduced by ten percent from 25 percent to 15 percent on all corporation taxable earnings resulting in an overall tax burden of less than 30 percent.
Corporate income tax applies to both retained and distributed profits. However, once profits are distributed to shareholders, the shareholders must, in turn, pay final withholding tax (Abgeltungsteuer) at a rate of 25 percent (as of 2009) on these profits (i.e., dividends).

If a German subsidiary pays out dividends to a foreign parent corporation, generally a withholding tax (Kapitalertragsteuer) of 25 percent is due. In case there is a double taxation agreement between Germany and a foreign state, this withholding tax can be refunded to a certain extent, according to the rules set out in the double taxation agreement (There usually is a reduction concerning the tax rate, e.g., tax rate of only 5, 10 or 15 percent.)

As of 2009, a refunding of 2/5 of the deducted withholding tax will be possible irrespective of any existing double taxation agreement.

In addition to corporate income tax, the solidarity surcharge (Solidaritätszuschlag) is also added. This was introduced in 1995 to finance German reunification. The surcharge is 5.5 percent of the assessed amount of corporate and personal income tax. Accordingly, the solidarity surcharge is 5.5 percent of the 15 percent corporate income tax, adding up to a combined corporate income tax + solidarity surcharge burden of 15.825 percent.

**Personal Income Tax for Partnerships**

Partnerships such as the civil law partnership (Gbr), the general commercial partnership (oHG) or the limited partnership (KG) are not separate legal entities but associations of partners, with the partners themselves generally being subject to all rights and obligations.

Accordingly, partnerships are not subject to corporate income tax (Körperschaftsteuer) but to personal income tax (Einkommensteuer), with the individual tax rate applicable to each shareholder.

The personal income tax rate starts at:

- 14 percent for an annual income exceeding the tax-free allowance of EUR 8,004.
- It rises progressively to a maximum personal income tax rate of 42 percent which is applicable to annual income of EUR 52,881 or more.
- An increased tax rate of 45 percent applies to every euro in excess of earnings of EUR 250,731 per year.

These tax rates also apply for personal income tax for employees.

As with corporate income tax, the solidarity surcharge is also added to personal income tax. Accordingly, the solidarity surcharge is 5.5 percent of the individual personal income tax rate of every partner. If a partner has an individual income tax rate of 30 percent, the combined personal income tax + solidarity surcharge burden on the partner’s share in the profits would add up to 31.65 percent.
Generally, distributed and retained earnings of partnerships are subject to personal income tax with progressively rising tax rates. In order to reduce the tax burden for partnerships (making it similar to the tax burden of corporations), the reform of company taxation introduced two options:

- Trade tax payments for both distributed and retained earnings can now be offset against personal income tax on a larger scale (see Example “Offsetting Trade Tax against Personal Income Tax”).
- To avoid a progressively rising personal income tax rate, partnerships can apply for a flat taxation rate of 28.25 percent plus solidarity surcharge on retained earnings—leading to a flat taxation rate of 29.8 percent equaling the tax burden for corporations. (If retained earnings (taxed according to flat taxation) are distributed to partners at a later date, the distributed earnings are, under certain conditions, subject to a subsequent taxation rate of 25 percent.)

**Trade Tax for all Commercial Business Operations**

All commercial business operations in Germany (regardless of legal company form) are subject to trade tax (Gewerbesteuer) with respect to their taxable earnings.

The applicable trade tax burden depends on two factors:

- The standard trade tax base rate (according to German trade tax code)
- The trade tax collection rate stipulated individually by every municipality (called the municipal multiplier - Hebesatz).

The trade tax base rate has been lowered from its previous five percent level to 3.5 percent for corporations, partnerships, and all other business operations.

The resulting trade tax base amount is then multiplied by the applicable municipal multiplier (Hebesatz).

By law, the municipal multiplier must be at least 200 percent (resulting in a minimum total trade tax burden of seven percent). There is no statutory ceiling; therefore the municipal multiplier in conurbations can be as high as 490 percent. The average municipal multiplier is somewhere between 350 percent and 400 percent, and the municipal multiplier tends, as a rule, to be higher in urban areas than in rural areas.
Example

- Company A with annual taxable earnings of EUR 1,000,000 is based in city B.
- City B has stipulated a municipal multiplier of 400 percent.
- The trade tax base amount for company A is 3.5 percent of its annual taxable earnings or EUR 35,000.
- The EUR 35,000 is multiplied by the municipal multiplier of 400 percent, resulting in a total trade tax burden for company A of EUR 140,000.

Annual taxable earnings of up to EUR 24,500 are trade-tax-exempt for partnerships. **No solidarity surcharge** is levied on trade tax payments!

Germany’s reform of company taxation has improved the option to offset trade tax payments against personal income tax. Previously, partnerships and sole proprietorships could offset trade tax payments against their personal income tax burden with a weighting factor of 1.8. of the trade tax base amount.

Under the company taxation reform, **this weighting factor has been more than doubled to 3.8**. Accordingly, the personal income tax of a partnership or sole proprietorship can be reduced by 3.8 times the trade tax base amount.

Example

- Partnership A has a trade tax base amount of EUR 35,000 (3.5 percent of its annual taxable earnings).
- This trade tax base amount can be offset against personal income tax payments with a weighting factor of 3.8; amounting to EUR 133,000 (35,000 x 3.8).
- Accordingly, partnership A can offset EUR 133,000 against personal income tax payments.

Determining the Overall Tax Burden

According to the company taxation rules outlined before, the overall tax burden is to be calculated as follows:

<table>
<thead>
<tr>
<th>Taxation</th>
<th>Corporation</th>
<th>Partnership¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxable Income</td>
<td>EUR 1,000,000</td>
<td>EUR 1,000,000</td>
</tr>
<tr>
<td>Trade Tax (average rate: 400)</td>
<td>EUR -140,000</td>
<td>EUR -140,000</td>
</tr>
<tr>
<td>Income Tax</td>
<td>EUR -150,000</td>
<td>EUR -282,500</td>
</tr>
<tr>
<td>Trade Tax Payments to Be Set off Against Personal Income Tax</td>
<td>-</td>
<td>EUR +133,000</td>
</tr>
<tr>
<td>Solidarity Surcharge</td>
<td>EUR -8,250</td>
<td>EUR -8,250</td>
</tr>
<tr>
<td>Net Income</td>
<td>EUR 701,750</td>
<td>EUR 702,250</td>
</tr>
<tr>
<td>Overall Tax Burden (Income Tax + Trade Tax + Solidarity Surcharge)</td>
<td>- 29.83 %</td>
<td>- 29.77 %</td>
</tr>
</tbody>
</table>

¹Assumption: 100% of profits retained  
Source: Invest in Germany
Final withholding tax is a flat tax of 25 percent on current income from capital such as dividends from stock corporations and interests as well as income from transactions (e.g. shares of corporate companies accruing from December 31st, 2008).

Only private individuals are liable to this tax. The solidarity surcharge is also levied on final withholding tax – resulting in a total tax burden of approximately 26.4 percent.

If a bank or other financial institution pays out such income from capital, the bank or financial institution simply withholds the tax and transfers it to the responsible tax authorities.

**Taxation of Property**

Every property owner in Germany is liable to pay real property tax (*Grundsteuer*). The tax rate depends on the type of real property. This is sorted into two distinct categories:

- Real property tax “A”. Real property used for agriculture and forestry.
- Real property tax “B”. Constructible real property or real property with buildings.

**Real Property Tax Rate**

The real property tax burden is calculated by multiplying:

- the assessed value of the real property
- the real property tax rate
- the municipal multiplier

The assessed real property value is determined by the tax authorities according to the German Assessment Code (*Bewertungsgesetz*). The German Assessment Code refers to historical property values that are usually significantly lower than current market value.

The real property tax rate depends on the type of real property. The tax rate is e.g. 2.6‰ (0.26 percent) for property used for (semi-) detached houses with a value of up to EUR 60,000 and 3.5 ‰ (0.35 percent) for all remaining types of real property (including commercially used real property).
Similar to the municipal multiplier applied in the trade tax case, the municipal multiplier applied to real property tax is stipulated by each municipality. Municipalities determine a municipal multiplier for both real property tax “A” and real property tax “B”, with the rate for “B” usually being higher.

Determining the Real Property Tax Burden

Real property tax burden for a commercial building in a municipality with an average real property tax “B” collection rate of 350 percent:

\[
\text{Assessed Value} \times \text{Basic real property tax rate} \times \text{Municipal multiplier “B”} \times \text{350 percent} = \text{Real property tax burden}
\]

<table>
<thead>
<tr>
<th>Assessed Value</th>
<th>EUR 1,000,000 (e.g.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>x Basic real property tax rate</td>
<td>x 0.35 percent</td>
</tr>
<tr>
<td>x Municipal multiplier “B”</td>
<td>x 350 percent</td>
</tr>
<tr>
<td>= Real property tax burden</td>
<td>= EUR 12,250</td>
</tr>
</tbody>
</table>

Real Property Transfer Tax (Grunderwerbsteuer)

When domestic real estate is sold or changes owner, a one-time real property transfer tax (Grunderwerbsteuer) of 3.5 percent of the purchase price is levied if the purchase price or consideration exceeds EUR 2,500. Real property transfer tax is usually paid by the buyer. In Hamburg and Berlin, the rate is 4.5%.

Real property transfer tax also applies to a real property-owning partnership if 95 percent of the shareholders change within five years.

Value Added Tax

Companies must add value added tax (VAT) to their prices. Thus, VAT is only paid by the end user of a product or service. Companies transfer the VAT received to the tax authorities on a monthly, quarterly, or annual basis. The frequency generally depends on the level of company turnover.

The normal VAT rate of 19 percent is just below the European average. A lower rate of seven percent is charged for convenience goods and services needed on a day-to-day
basis (such as food, newspapers or public transport). Some services (including banking, healthcare, and non-profit work) are VAT exempt.

The official German term for VAT is *Umsatzsteuer*, but it was originally called *Mehrwertsteuer* and is often still referred to by this name.

**Input VAT (Vorsteuerabzug)**

Companies themselves also pay VAT when they purchase goods or services. The taxes collected and paid can be balanced out in the VAT return as input VAT (*Vorsteuerabzug*).

**Example: How Input VAT is Balanced**

A car dealer has sold ten vehicles in one month, each at a gross price of EUR 17,850 (net cost EUR 15,000). For each sale, the dealer receives EUR 2,850 in VAT from the customer. At the end of the month, the dealer therefore owes the tax authorities EUR 28,500.

However, in the same period, the car dealer also bought ten cars from the car manufacturer. The net cost of each car was EUR 10,000. The car manufacturer added 19 percent VAT to this amount. The dealer therefore transferred EUR 119,000 (including EUR 19,000 in VAT) to the manufacturer.

Thus, the car dealer has received EUR 28,500 in VAT and paid out EUR 19,000 in VAT. These totals are communicated to the tax authority (Finanzamt), and only the difference of EUR 9,500 must be transferred by the car dealer to the tax authorities.

**Trade Within the European Single Market**

Trade within the EU is free from customs and other restrictions. However, goods traded between different EU member states are subject to so-called acquisition tax (*Erwerbsteuer*).

Acquisition tax is payable by the recipient of the goods. If an EU company exports goods to a company located in another EU member state, the delivering company therefore neither has to pay customs or charge VAT. The company in the other EU member state receiving the goods has accordingly to pay acquisition tax.

Acquisition tax rates correspond with the VAT tax rates of the country where the recipient of the goods is located. Companies can however reclaim acquisition tax like regular VAT.

**Trade with Non-EU Member States**

Goods imported from non-EU states are liable to import VAT called import turnover tax (*Einfuhrumsatzsteuer*). The import turnover tax rate equals the VAT rates of 19 percent or 7 percent and is paid to the customs authority.

However, the import turnover tax on goods imported from non-EU states can be deducted as input tax (*Vorsteuer*). As a prerequisite, the company must have the necessary import documents with customs proof of payment (import declaration).

Exports are exempt from VAT.
Tax Deductions

The significant difference between nominal and effective tax rates in Germany is based on a series of options for tax deductions.

Loss Carry-Back and Loss Carry-Forward

Losses for corporate income tax purposes can be carried back for one year, limited to a total loss amount of EUR 511,500.

Losses can be carried forward with no time restriction. Up to an amount of EUR 1 million loss carry-forward is possible - free from any restrictions. For sums in excess of EUR one million, at least 40 percent of the taxable income must remain subject to taxation. In other words, a maximum 60 percent of taxable earnings exceeding EUR one million can be offset against incurred losses.

Deductibility of Interest Payments

Generally, interest payments are fully deductible as operating expenditure. However, some special rules apply for corporate groups. If the amount of interest payments exceeds the amount of interest earnings for more than EUR 3 million, these exceeding interest payments are only deductible up to an amount of 30% of the EBITDA (earnings before interest, taxes, depreciation and amortization).

Straight Line Depreciation

Straight line depreciation for assets is a deductible expense for tax purposes. The annual depreciation is calculated by dividing the purchase price by the estimated useful life of the asset.

All depreciations have to apply the straight line method.

Fiscal Unit Concept

The German fiscal unit concept allows profit and loss pooling to determine the profit for taxation purposes at the level of the controlling parent. Profits and losses from German subsidiaries are consolidated and subject to taxation at the level of the German parent company. Fiscal unit preconditions are:

- The controlling parent is resident in Germany.
- The parent holds more than 50 percent of voting rights of corporate subsidiary entity.
- A profit and loss pooling agreement between parent and subsidiary entity exists with a duration of five years.
- This agreement is registered with the commercial register.
The Tax Return

Every taxpayer must submit a tax return to the tax authority (Finanzamt) once a year. The tax authorities are organized locally. The authority in the place of the commercial domicile of the company is responsible.

The return for the previous calendar year must be submitted by May 31 of the subsequent year, but this deadline can be extended on request. Depending on the expected amount of taxes to be paid, the tax authorities can determine the period when tax payments are due.

The tax authorities provide information on tax issues. However, companies in particular should seek the services of a tax consultant to ensure the tax return is completed as favorably as possible.

The German Association of Tax Advisers (Deutscher Steuerberaterverein e.V.) provides a register of German Tax Advisers.

German Association of Tax Advisers
www.dstv.de

The tax return itself consists of individual forms for each type of income. Where applicable, documents for expenses must be included or provided at a later date at the request of the tax authority. Employees pay wage tax - the term used for personal income tax when levied from employed jobholders. Employers are required to deduct wage tax from the employee’s wages and transfer it to the tax authorities.

Declarations on wage tax and VAT can easily be sent to the tax authority online. Detailed information on tax return procedures for investors is provided by the Tax Information Centre (Steuerliches Info-Center SIC).

Tax Information Centre SIC
www.steuerliches-info-center.de
Customs

Since the establishment of the European Customs Union, the customs regime in Germany is governed first and foremost by EU law as is the case in all other EU member states. However, customs are administered by the German Customs Administration (Bundeszollamt) with offices throughout Germany.

The European Customs Union

The European Customs Union forms a single trading area based on the EU-wide community customs code (Zollkodex der Gemeinschaften). The European Customs Union has:

- eliminated customs duties between EU member states
- eliminated import VAT between EU member states
- created uniform customs regime including (external) common customs tariff (CCT) rates for goods imported from non-member countries into the Customs Union area

The community customs code, including the common customs tariff, is applied by all 27 EU member states as well as by Andorra, San Marino, and Turkey; the latter countries having entered a customs union with the European Community.

CCT rates vary depending on the type and origins of the imported goods. The applicable tariff rates for goods, depending on product category and country of origin, can be researched using the EU “TARIC” online tariff database accessible via the European Commission website.

![Online Tariff Database TARIC](http://ec.europa.eu)

A German product may be shipped to Hungary without paying any duty and without any customs control. Alternately, a Japanese product imported into the European Customs Union is subject to customs duties only when and where it first enters the EU, for example, Germany. Subsequent to entry and initial customs clearance, no more customs procedures and duties are necessary. The product can circulate freely within the European Single Market.

EU Trade Agreements

The EU sets its import tariffs and other customs rules on the basis of international agreements. In principle, these apply to all imports, but the EU has trade agreements offering cut-rate entry and often duty-free access for goods from neighboring, developing, and emerging economies.
These include:

- Free trade agreements with the other countries of the European Economic Area (Iceland, Liechtenstein, Norway) and Switzerland
- Customs unions with Andorra, San Marino, and Turkey
- Trade agreements with former British, French, and Portuguese colonies in Africa, the Caribbean, and the Pacific (the ACP countries)
- Trade agreements with countries around the Mediterranean, including those of southeastern Europe

**Customs Procedures**

All movable and tangible assets that can be controlled by a person can be considered “goods” for customs purposes. As an exception, electric current - though not a tangible asset in the normal sense - also falls under the category of goods for customs purposes because it is merchandised. Gases and liquids are considered goods for customs purposes only once they have been filled into vessels or discharged into a pipeline for transportation.

The import of such “goods” may have different purposes: goods may be meant, for example, for direct sale, assembly, or temporary use. Depending on the reason for import, different customs procedures apply.

The three most common customs procedures are:

**1. Release for Free Circulation (Überführung in den freien Verkehr)**

- The imported goods are subject to normal customs duties and import taxation.
- The importer pays the duties and may dispose of the goods freely.

**2. Inward Processing (Aktive Veredelung)**

- Third country goods are imported into the Customs Union for processing within a period of time defined by the customs administration, and subsequently re-exported.
- The imported goods are usually exempt from customs duties or taxes.
3. Outward Processing (Passive Veredelung)

- Counterpart of inward processing
- An entrepreneur temporarily exports community goods to third party countries for the purpose of processing, repairing, or working abroad.
- The processed goods are re-imported into the Customs Union area within a granted time period.
- Duties and taxes are calculated based on the differential or the clearance of the added value at the time of re-importation.

For information on other existing customs procedure such as customs warehousing (Zolllagerverfahren), temporary importation (Vorübergehende Verwendung) and processing under customs surveillance (Umwandlungsverfahren), please contact NRW.INVEST or the Customs Info Center (Zoll Info Center).

Customs Declaration

Effective processing of the customs declaration can only commence once the goods are on EU/Customs Union territory and have been presented at the customs office. Products imported into the European Customs Union are subject to customs duties only when and where the product first enters the EU (for example Germany).

The German Customs Administration (Bundeszollamt) is responsible for the administration of the joint customs procedures in Germany. All information and documentation material relevant to the chosen customs procedure have to be submitted along with the customs declaration.

The Customs Info Center provides certain standard customs declaration forms in English on its website.

Customs Information Center
www.zoll.de
6 Employees and Social Security

Finding Suitable Staff
Flexible Models of Employment
Terms of Employment
Termination of Employment
Employee Representation
The German Social Security System
A company’s success very much depends on its employees. Finding suitable staff in Germany is quite easy. But what considerations need to be addressed once employees are found? How is employment - or termination of employment - regulated? What do employers need to know about the German social security system? And how does payroll accounting work?

Finding Suitable Staff

Workforce in Germany

Germany has over 400 universities and universities of applied sciences (UAS) with over 338,000 graduates in 2009. Through a combination of on- and off-the-job training in Germany’s so-called dual education system (please see chapter eight, Living in Germany for detailed information), hiring and training costs are reduced (especially for skilled craftsmen and technicians) and recruitment risks minimized. Vocational colleges closely cooperate with approximately 500,000 companies in Germany, ensuring that education always meets specific industry needs.

How Employers Find Suitable Staff

Recruitment services are offered by the Federal Employment Agency (Bundesagentur für Arbeit), which provides its services free of charge and operates job centers in all large towns and cities in Germany.

Federal Employment Agency (in German only)
www.arbeitsagentur.de

There are several programs offering extensive public support for hiring employees.

Alternatively, private employment companies can help in finding the appropriate specialist. Companies usually charge 1.5 - 2 monthly gross salaries from the employer or a fee from the job applicant (usually not exceeding EUR 2,000).

German Association of Private Employment Agencies
www.bza.de

In addition, companies seeking new personnel usually advertise open positions in newspapers, journals, company websites, or on internet job market websites. Ads for specialists and highly qualified staff are usually placed in national newspapers and professional journals, whereas ads for skilled workers or low-qualification jobs normally appear in local papers. Reflux is usually high.
Employers are free to define the recruiting process based on individual requirements. There are only a few guidelines to be observed, such as the need for jobs to be offered in a non-discriminatory manner - meaning that employers are required to hire on an equal opportunity basis without discrimination in terms of race, ethnicity, gender, religion, ideology (Weltanschauung), disability, age, or sexual orientation.

Flexible Models of Employment

Germany has different models of employment, providing investors with flexible employment solutions - especially in the starting phase of the business. Temporary employment agencies provide appropriate personnel at short notice.

**Fixed-term Contracts**

Standard employment contracts are not generally time restricted. They usually include a probation period of up to six months.

Companies are nonetheless free to offer fixed-term contracts. Such fixed-term contracts automatically expire on a specific date. A dismissal is not required to terminate this type of contract (unless the contract needs to be terminated before expiring). It is for the employer to decide whether to renew the contract or not.

Fixed-term contracts are limited to a maximum of two years. A fixed-term contract may be extended up to three times provided the total duration of contract does not exceed the maximum of two years.

<table>
<thead>
<tr>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>A limited six months contract can be extended three times for a further six months (for a total duration of 24 months).</td>
</tr>
</tbody>
</table>

During the first four years of a company’s existence in Germany, employment contracts may be limited or extended several times up to a total duration of four years.

**Temporary Employment**

Temporary employment means that a company can hire staff without concluding an employment contract. Instead, the company hires staff from a temporary employment agency.
agency by concluding a service contract which regulates the conditions under which the employees are sent to the hiring company.

The employee is legally employed by the temporary employment agency, which means that the employee receives financial remuneration only from the temporary employment agency, as no contractual relationship exists between the hiring company and the employee. The hiring company pays a certain fee to the temporary employment agency as set out in the service contract.

The duration and the terms of termination of the service of the employee in the hiring company are not subject to labor regulations, but only set out in the service contract between the hiring company and temporary employment agency.

The general working conditions such as weekly working hours and wages are usually determined in collective agreements between unions and the respective employers’ associations of the temporary employment industry. These collective agreements provide flexible working hour models by using working hour accounts to adjust the demand of the hiring company and working time regulations.

Mini jobs are jobs with salaries below EUR 400 per month (also known as “400 Euro Jobs” or “short-term” jobs) or an employment period in which the employee works 50 days per year or less for the company.

For mini-jobs with a salary below EUR 400 per month, employers pay 30.1 percent of the gross wage as social security contributions and flat tax (composed of 13 percent health insurance, 15 percent pension insurance, 2 percent flat tax, and 0.1% percent sick pay contribution allocation). Employees are fully exempt from social security contributions (even if they hold another fully taxable employment position).

For mini jobs with less than 50 working days per year, personal income tax has to be transferred to the tax authorities (subject to a number of conditions including whether 25 percent flat tax or individual tax rate of employee is payable). No social security contributions must be paid by both employer and employee.

“Midi” jobs (or “low wage jobs”) are jobs that pay between EUR 400.01 and EUR 800 per month. They are subject to reduced employee social security contributions. Employers are subject to the normal social security contributions of around 21 percent of the gross wage, which represents a lower rate than the general tax for mini jobs.
Terms of Employment

The Employment Contract

A contract of employment setting out the terms and conditions of the employer-employee relationship is usually drawn up in writing (verbal agreement is also possible). In principle, the contract can be formulated in any language. However, a binding German version is advisable as German courts require a German translation of any contract drawn up in another language in the event of any legal proceedings being instigated.

There is no legally fixed form for a contract of employment. Nonetheless, it is highly advisable to define certain points, such as:

- Area of activity and general description of tasks
- Date of contract inception and, in the case of fixed-term contracts, duration of the agreement
- Daily and/or weekly working hours
- Probationary period
- Remuneration
- Holiday allowance
- Declaration of the notice period
- Declaration of confidentiality
- If applicable, a ban on the employee working for a competitor for a two-year period after leaving the company
- Possible secondary occupations
- Annual holidays
- Penalty for breach of contract

Payment

Employee pay can be negotiated freely unless a minimum wage applies. German law does not prescribe a statutory minimum wage for most professions. Minimum wage agreements have only been established in the following industries:

- General construction trade
- Roofing
- Painting and varnishing trade
- Commercial building cleaning trade
- Electrical engineering trade
• Mining specialists
• Commercial laundry services (in customer business premises)
• Waste management
• Nursing care sector

The federal government will establish further minimum wage agreements for the security services industry, money and value transportation services, and the temporary employment sector in 2011.

Adjustable Working Hours
Working hours are very flexible in Germany. Under German labor law (Arbeitsrecht) employees are allowed to work 48 hours per week. Saturday is considered to be a normal working day, whereas Sunday is widely considered a day off. Most business is conducted from Monday to Friday but retailers and manufacturing industries usually operate on Saturdays as well.

A total of 60 hours per week (or ten hours a day over six days) is possible under certain circumstances.

Extra hours worked must be compensated through the allocation of additional time off. An overtime bonus is possible, but not mandatory. Bonuses have to be paid only when required by individual or collective labor agreements.

The statutory amount of work breaks depends on the total number of hours worked per day. Employees are entitled to a break of 30 minutes when working between six and nine working hours per day. Employees are entitled to a 45 minute break where more than nine hours a day are worked. Breaks may be split up throughout the day, but divisions may not be shorter than 15 minutes. Statutory breaks of at least eleven hours exist between shifts.

Vacation and Public Holidays
Full-time employees (meaning employees working more than six months within one calendar year) working six days per week are entitled to a minimum of 24 paid vacation days (the equivalent of four weeks) per year. Accordingly, full-time employees working five days per week are entitled to a minimum of 20 days per year.

The employee is entitled to a pro-rated period of paid vacation when working for less than six months within one calendar year. During the typical six-month probationary period at the beginning of any new employment contract, employees are not normally entitled to take any vacation days.

The number of public holidays varies from state to state in Germany.
### Sick Leave

Employees are obliged to inform their employer about any sickness requiring an absence from work and the expected duration of this absence as soon as possible (generally on the first day of the sick leave). Where the period of sick leave exceeds three days, employees are obliged to have a general practitioner provide proof of their incapacity to work. Notwithstanding this, employers may also request medical certification of an employee’s incapacity to work beginning on the first day of sick leave.

Employees are entitled to sick pay amounting to 100 percent of the normal salary until the time of recovery, though limited to a maximum of six weeks.

### Maternity Leave

Employees should inform the employer of any pregnancy and the expected delivery date as early as possible.

A maternity protection period starts six weeks before the expected birth date and ends eight weeks after delivery. Pregnant employees are only allowed to work during this time if a doctor certifies that the work will not be harmful to the health of the mother.
and child. (In cases of premature or multiple births, the employee is not obliged to return to work for a period of up to twelve weeks after delivery - without having to provide proof of medical necessity for this extended absence.)

During the maternity protection period, pregnant employees are entitled to the average sum of their wages for the three months (or 13 weeks) period prior to the pregnancy paid by the employee’s public health insurance (or the state in the case of privately health insured employees) and the employer.

Anti-Discrimination

The General Equal Treatment Act of 2006 (Allgemeines Gleichbehandlungsgesetz, AGG), often referred to as the anti-discrimination act, implements EU regulations on anti-discrimination.

The anti-discrimination act mandates a general prohibition of discrimination against any person for reasons of:

- Race
- Ethnicity
- Gender
- Religion or ideology
- Disability
- Age
- Sexual orientation

Termination of Employment

A contract of employment can be terminated by the employer or the employee. Dismissals require written form and both parties have to observe the statutory notification periods.

The German Employment Protection Act (Kündigungsschutzgesetz) establishes certain rules for dismissals, drawing distinctions between:
• Dismissal for personal reasons
• Dismissal for conduct-related reasons
• Dismissal for business reasons

The Employment Protection Act only applies to companies with a staff of more than ten employees and with respect to continuous employment relationships of more than six months in the same company.

If these conditions do not apply, employers generally have an unfettered right to terminate employment contracts within statutory notice periods.

Dismissal for Personal Reasons
If employees are not physically or mentally suited to their job in the long term, termination is possible if the burden on the company is unreasonable. Justifiable reasons include long-term illness with a negative prognosis, or an alcohol or drug addiction with no reasonable prospect of successful treatment. However, employers must first implement reasonable stop-gap measures such as staff reorganization or the hiring of temporary staff.

Dismissal for Conduct-Related Reasons
Employee misconduct can justify dismissal. However, a dismissal must always remain an option of last resort. Less severe options, such as redeployment of the employee, have to be considered prior to dismissal. Dismissal for conduct-related reasons generally also requires a prior written warning.

A conduct-related dismissal may be based on significant inappropriate conduct such as:

• Repeated lateness for work
• Refusal to perform certain work
• Repeated unapproved private use of the Internet despite prior prohibition
• Unapproved vacation
• Penal offenses in the course of work,
• “Whistle-blowing”

Dismissal for Business Reasons
Termination for business-related reasons may be permitted if the employee’s job is rendered dispensable due to changes in the business organization such as:

• Plant closure
• Restructuring
• Insufficient work due to a shortage of orders

The business decision to cut back jobs under these circumstances is only limited reviewable by labor courts.
Extraordinary (Immediate) Termination

Immediate termination of employment may be considered in cases of serious misconduct rendering it unacceptable for either party to continue the employment relationship.

It is not sufficient for the termination be regarded as necessary, it must be immediately imperative. Accordingly, the legal period of notice does not apply in these cases.

Exemplary reasons for the employer:

- Continued non-performance of agreed work
- Disturbance of the general working environment
- Theft
- Disclosure of sensitive information
- Non-authorized competitive engagement

Exemplary reasons for the employee:

- Non-payment of wages
- Unlawful working

Immediate termination is only effective if the terminating party dissolves the employment within 2 weeks after the reasons for termination became known.

Notification Periods

When terminating permanent contracts of employment, certain notice periods are required by law. The determination of the minimum statutory period depends on whether the employee or employer is seeking to terminate the contract.

An employee must submit a notice with a minimum notice period of one month, effective either on the 15th or end of the month.

For the employer, the minimum notice period depends on the duration of employment. After the probationary period of a new employment contract has ended, the initial notice period is four weeks. This increases to seven months after 20 years of job tenure in the same company. Individual notice periods can be agreed upon, but these must comply with minimum statutory notice period requirements.
Every notice of termination must always be issued in writing - notice of termination in electronic form is insufficient.

Employee Representation

Works Councils

A works council may be established in companies with five or more employees.

Works councils are in-house committees representing the interests of the employees within a company. Their activities range from information and non-binding consultation rights to exercising co-determination rights in organizational and social affairs. However, the works council is generally prohibited from becoming involved in corporate governance.

Rights regarding the formation of works councils are governed by the German Works Council Constitution Act (*Betriebsverfassungsgesetz*). Accordingly, works councils can be formed by the employees through election (no quorum required). Works council members are elected for four years by the employees in direct and secret elections. Candidates do not have to be union members.

Functions and Rights of Works Councils

Works councils have informative and advisory rights relating to company internal policy and organization. Specifically, they can negotiate rules pertaining to organizational and social issues, and must be consulted regarding specific personnel decisions. The employer and works council can negotiate rules on matters such as:

- end and beginning of daily working hours (not the duration as such)
- vacation schedules
- internal behavioral rules
- safety issues (accident prevention)
- surveillance installations
- internal social facilities (e.g. cantines)
- general company wage structures (but not individual salaries)
Employee Representation on the Supervisory Board

Stock corporations (Aktiengesellschaft) must always install a supervisory board. For Limited Liability Companies (GmbH) the installation of a supervisory board is mandatory only if the company has more than 500 employees. Whereas in smaller corporations the supervisory board can in principle be made up of representatives from the shareholder side only, large corporations with more than 500 employees must have representatives from both employers/shareholders and employees on their supervisory board (at least 1/3 of representatives must be employees).

The German Social Security System

In contrast to some other industrialized countries, the core social security in Germany is financed collectively by means of a process of redistribution. The current costs (for pensioners, sick people or those in need of nursing care, and unemployed people) are paid directly from contributions by employees and employers.

Components of Social Security Insurance

Social security contributions are made up of:

- Health insurance
- Nursing care insurance
- Pension insurance
- Unemployment insurance
- Accident insurance

Generally speaking, social security contributions are roughly shared equally by employer and employee. Only the costs for accident insurance are exclusively borne by the employer. In total, the employer’s share of social insurance contributions amounts to approximately 21% of the employees gross wage.

The German Health Insurance System

All employees can choose their own health insurance provider. A common fund exists for all other social security components.
Employees earning a gross wage of less than EUR 4,125.00 per month are compulsorily insured by one of the public health insurance providers (Gesetzliche Krankenversicherung, GKV).

Employees whose earnings are above this income threshold can choose from both public and private insurance companies (Private Krankenversicherung, PKV). Employee and employer also share the premiums for private health insurance plans.

On January 1, 2011 a new healthcare law came into force. The average statutory health insurance contribution rate is now 15.2%. The maximum employer’s contribution has been fixed at 7.3%. Health insurance companies that cannot get by on the contributions may only charge the insured employees for an additional contribution – but not the employers.

Payroll Accounting and Social Security Contributions

Employees in Germany receive a net wage or salary from which tax and social security contributions have already been deducted.

The employer withholds the tax that the employee is required to pay and transfers the money directly to the tax authority (Finanzamt). Therefore, all employees must be registered with the local tax authority. Social security contributions are also withheld by the employer after calculation of the gross wage and transferred to the employee’s health insurance company (which then distributes all of the contributions excluding accident insurance to all relevant parties).

The employer separately has to pay the contributions for the accident insurance to the Employers’ Liability Insurance Association (Berufsgenossenschaften)

Social Security in North Rhine-Westphalia

To complement general social legislation and the associated advisory and service infrastructure in Germany, North Rhine-Westphalia provides additional services.

Health and Safety at Work

To ensure that employers can meet the legal requirements for the protection of employees at the workplace, the state of North Rhine-Westphalia has set up advisory centers
at the five regional governments. Here, companies and employees can obtain advice on all matters relating to health and safety at work. In addition, the State Institute for Health and Safety at Work provides scientific information on related topics.

Further information at:
www.arbeitsschutz.nrw.de
www.liga.nrw.de

Education Check

Science and technology are constantly producing new knowledge which affects the world of work. To be able to remain competitive in the market, companies need employees who are prepared to undergo further training. With the Education Check, North Rhine-Westphalia provides both employers and employees with an incentive to take advantage of professional training opportunities. The Education Check is aimed at small and medium-sized companies with a maximum of 250 employees who have a particular demand for further training. When a company’s employees undergo further training, the state of North Rhine-Westphalia covers half of the cost – to a maximum of 500 euros per Education Check.

Throughout the state, there are around 175 counseling centers providing detailed advice.

Further information at:
www.bildungsscheck.nrw.de

Store Opening Times

In Germany, the federal states are responsible for the regulation of the store opening times. Since 2007, the following rules have applied in North Rhine-Westphalia: From Monday to Saturday, business proprietors can determine their opening times without any restrictions. Sunday is protected on principle and not a sales day. However, cities and municipalities have the possibility to determine special openings for up to six Sundays a year.

This does not affect conditions for employees with regard to labor law.

Further information at:
www.wirtschaft.nrw.de
7 The Legal Framework

Foreign Businesses in Germany
Patents, Licensing, Trade Marks
Planning and Building
Legal Proceedings
In principle, business activities in Germany are free from regulations limiting day-to-day business. Intellectual property is strongly protected by patent laws which hold foreign entrepreneurs to the same conditions as Germans. If necessary, investors’ rights can be enforced by Germany’s efficient judicial system. Read how Germany’s legal system can protect your investment.

Foreign Businesses in Germany

In principle, business activities in Germany are free from regulations restricting day-to-day business. German law generally makes no distinction between Germans and foreign nationals regarding investments or the establishment of companies.

Intellectual property is well protected by patent laws which extend the same conditions enjoyed by Germans to foreign entrepreneurs. Where necessary, investor rights can be enforced by Germany’s efficient judicial system.

Reliable laws enable companies to plan their investments effectively and licenses granted by the authorities provide a secure base for breaking ground on a construction project or operating a plant.

Foreign Trade and Payments Act

Germany has an open and welcoming attitude towards foreign direct investment (FDI). The legal framework for FDI in Germany favors the principle of freedom of foreign trade and payment transaction as laid down in the Foreign Trade and Payments Act (Außenwirtschaftsgesetz).

The Foreign Trade and Payments Act allows the imposition of restrictions on inward and outward FDI for reasons of foreign policy, foreign exchange, or national security. However, in practice, such restrictions are seldom imposed. There is no broad authority to review foreign direct investment (except for the defense and cryptology sectors), although a further extension of the Foreign Trade and Payments Act to more sectors is currently under discussion.

Import Regulations

Importers in Germany need neither an import permit nor an import control declaration. This applies to both residents, meaning natural persons residing in Germany as well as legal entities or partnerships with a registered office or management headquarters in the territory of the Federal Republic of Germany.

On certain goods import duties apply, which over the past years have been constantly reduced. Some goods, such as agricultural products, food, pharmaceuticals, chemicals, and goods of strategic relevance are subject to certain import restrictions. In such cases import licenses and surveillance documents may need to be obtained before importing to Germany.
Patents, Licensing, Trade Marks

Trademarks and patents are well protected in Germany. When establishing a company you should remember to protect your company’s intellectual property by means of registration. Conversely, you should ensure that your company and products do not infringe on existing intellectual property rights that have already been established in the German market.

**Patents**

Patents are granted for technical inventions which are new, involve an inventive step, and are industrially applicable. The duration of a patent is 20 years, beginning on the day following the invention patent application.

Under German patent law, patents are granted by the German Patent and Trade Mark Office (*Deutsches Patent und Markenamt, DPMA*) ruling. In order to apply for registration, the applicant must submit an application providing specific information and pay a fee. For details, as well as an overview of the patent fees, please refer to the DPMA’s “Information for Patent Applicants” fact sheet available at the DPMA website.

**DPMA’s Information for Patent Applicants Fact Sheet**

[www.dpma.de](http://www.dpma.de)

Foreigners may register patents subject to exactly the same terms as German nationals (this is also the case with trademarks). However, applicants having neither a domicile nor an establishment in Germany must appoint a patent attorney in Germany as a representative filing the patent application.

European patents are granted under the European Patent Convention (EPC). The European and the national patent-granting procedure exist in parallel. When seeking patent protection in one or more EPC contracting states, the applicant can choose between following the national procedure of the respective individual states or adopt the European route which confers protection in the contracting states designated as part of the single procedure.


**European Patent Organization**

[www.epo.org](http://www.epo.org)
Trade Marks

A trademark is a personal name, a company name, a term, a logo, or a combination of these, which identifies a company, its goods, or its services. Marks of this kind that are associated with a specific manufacturer or supplier may for instance take the form of symbols, words, illustrations, audio signatures, color designs, or packaging.

Additionally, a company or a product name that has acquired a secondary meaning as a trademark due to its independent value can also be eligible for trademark protection.

A mark can be protected as a trademark by recording it in the register kept at the German Patent and Trade Mark Office (DPMA). As with patents, an application must be filed at the DPMA. For more information, please refer to the “Information for Trade Mark Applicants” fact sheet available at the DPMA website.

DPMA’s Information for Trade Mark Applicants Fact Sheet
www.dpma.de

At present, the fee for trademark registration application and entry in the trademark register is around EUR 300.

Once trademark protection has been obtained, the owner of a trademark has an exclusive right to use the respective trademark. If the trademark has been registered, the owner can indicate this by placing ® (registered trademark) after the trademark. Protection is valid for a period of ten years and can then be extended for another ten years.

Licenses

The right to use a patent or a trademark may be subject to either an exclusive or a general license. By granting a third party a license, the owner of a patent or trademark entitles a third party to use or exploit the right in question without ceding ownership.

An exclusive license entitles only the licensee (i.e. the person that has been granted the right of usage) to exploit the right, usually within a certain territory. General licensing or non-exclusive licensing enables various licensees to use a right in the same territory at the same time.
Planning and Building

Construction Laws

The responsibility for public construction law in Germany is divided between federal and state governments.

Zoning law (Bauplanungsrecht) is federal law. It determines the purpose for which a property may be used and whether a building project fits into its surroundings.

The federal states are responsible for building regulations law (Bauordnungsrecht), which determines how buildings may be designed and constructed in order to meet planning law requirements. Each state issues its own building regulation. However, most of the states have adopted a specimen building regulation issued by the state ministries which also makes provision for certain standardization within this field.

Building Permits

A building permit (Baugenehmigung) is required for the construction, alteration, demolition, or change in use of a building. The building permit is granted if the project complies with the planning and building regulation law as well as with all other applicable laws (such as environmental laws).

An application for a building permit must be submitted to the local building authority or the building supervisory authority (Bauamt).

The application must include a detailed plan of the project, accompanied by necessary supporting documentation such as site plan, construction drawings, building specifications, and, where applicable, documentation regarding heating, noise prevention, and fire protection plans. The documentation required for the application must also be presented to adjacent property owners.

German law recognizes the principle of procedural merger. In order to simplify and coordinate the permit procedure, the immission control permit application procedure also includes the building permit process. Repeat procedures are therefore avoided and there is only one contact partner for the applicant.
Immission Control Permits

Environmental protection is declared as a general state goal in the German constitution (*Grundgesetz*). In general, all buildings may not contravene these protection goals. There are a number of different laws and regulations protecting the environment.

Most important for large industrial facilities is the immission control permit, which is required prior to construction in order to prove that facilities and projects comply with the requirements of environmental law and other regulations aimed at protecting the common good. Facilities and projects subject to this approval procedure are:

- Emitting industrial plants
- Waste management plants
- Nuclear (power) plants
- Highways and railroad tracks
- Airports
- Navigable waterways
- Plants subject to the law on genetic engineering

Immission Control Permit Procedure

The approval procedure is governed by the Federal Immission Control Act (*Bundesimmissionsschutzgesetz, BImSchG*) and related ordinances. The environmental agency of the respective federal state (*Landesumweltamt*) is responsible for the immission control permit procedure.

The BImSchG aims at protecting population and environment from detrimental effects due to air pollution, noise, vibration, light, radiation, and similar immissions. Construction, modification, and operation of emitting facilities require a formal approval procedure.

The permission procedure is limited to seven months, after which time a decision needs to be made: starting from the submission of the completed application documents. The approval procedure can be shortened for facilities or projects which, though still capable of generating detrimental effects, are expected to result in a less harmful or negligible impact on the population or environment.

Facilities likely to be subject to the simplified approval procedure may include facilities for the storage of inflammable gases or mineral oils and small paint or varnish shops. The time limit for the decision is three months starting from the submission of the completed application documents.

Some facilities are permit exempt under the terms of the BImSchG. Although construction, modification, and operation of such facilities are possible without direct authorization, the operator of the facility must nevertheless prevent detrimental effects to the environment and population.
Legal Proceedings

According to the 2008 Global Competitiveness Report of the World Economic Forum, Germany occupies top slot in the “Efficiency of Legal Framework” and “Judicial Independence” categories. Hence, companies and entrepreneurs can count on a reliable legal system. Numerous international law firms are represented in Germany.

Attorneys at Law

All attorneys at law are members of the bar council (Rechtsanwaltskammer) of the region. The Federal Bar Council (Bundesrechtsanwaltskammer) is the professional umbrella association of the different bar councils.

The largest private association is the Deutscher Anwaltverein, in which around half of all attorneys at law are organized on a voluntary basis.

The Courts

In Germany, ordinary courts which hear civil and criminal disputes are organized at different levels. There are:

- local courts (Amtsgericht)
- regional courts (Landgericht)
- higher regional courts (Oberlandesgericht)
- and the Federal Court of Justice (Bundesgerichtshof) at the highest level

A right of appeal is usually permitted against initial decisions. Under these circumstances, higher courts up to the level of the Federal Court of Justice settle the case.

Jurisdiction

In principle, local courts have jurisdiction in civil disputes if the monetary value of the dispute does not exceed EUR 5,000 and if the regional court does not have exclusive jurisdiction. There is normally no requirement to retain the services of an attorney in civil cases brought before the district courts.

However, representation by an attorney at law is necessary for all proceedings before the regional courts, the higher regional courts, the Federal Court of Justice (Bundesgerichtshof), and for a range of family matters in the district courts.
Besides the ordinary courts there are also specific courts for administrative, social, labor and fiscal matters. The labor courts (Arbeitsgericht) are responsible for disputes arising from industrial relations; especially those relating to collective agreements or the termination of contracts of employment. The fiscal courts (Finanzgericht) rule on disputes relating to taxes and charges subject to federal legislation.

The Order of Payment Procedure

In principle, the order for payment procedure is applicable to all claims relating to the payment of a specific sum of money. A small fee is charged for this procedure, and a lawyer doesn’t need to be involved.

A written reminder is followed by an application to the local court for an order for payment procedure (Mahnbescheid). A standardized application form must be used. The competent court for the purposes of the order for payment procedure is the district court at which the applicant has his general jurisdiction.

The court issues the order for payment to the defaulting payer. The defendant can file an objection within two weeks. If no objection is filed, the court issues an enforcement order on application which is provisionally enforceable.

Notice of appeal can be filed against the enforcement order within two weeks. If the defendant disputes the claim within this period, it is no longer possible to issue an enforcement order for the compulsory enforcement of the claim asserted under the order for payment.

However, the procedure is not automatically transferred to normal (i.e. “adversary”) proceedings. This requires a specific application for the contested procedure to be implemented - this can be submitted by either the order for payment procedure applicant or defendant. The applicant may also submit an application as soon as he becomes aware of the objection, or can link the application to the order for payment as a precaution.

Alternative Disput Resolution

Arbitration agreements are often a means of settling disputes - particularly in the trade and industry sectors. The chambers of industry and commerce can act as arbitrators in these cases. The procedure is non-bureaucratic. The chambers of industry and commerce have created a number of different arbitration institutions for consumer complaints such as arbitration boards or courts of arbitration (Schiedsgericht).
8 Living in Germany
Finding the Right Place to Live
Assistance for Families
German Education System
Health System
Ensuring Quality of Life
German living standards are high, though living expenses are moderate. The government provides for a sound living environment: families enjoy significant support, are bolstered by an excellent education system, and the German health system is considered exemplary throughout the world. This chapter explains how to make the most of what Germany has to offer.

**Finding the Right Place to Live**

German living standards are high, even though living expenses are moderate. Renting or purchasing a home is considerably less expensive than in many other industrialized countries. Were that not enough, utilities are reliable and competitively priced.

**Finding Accommodation**

Like anywhere else in the world, prices depend on the accommodation location and the facilities provided. The price level for rented and purchased real estate in German cities is lower than in many other western European cities. Quality accommodation is in high demand in industrial areas.

The individual municipality websites are always a good source of information about the living conditions in a particular town or city. The websites run by the individual states provide information on the surrounding area. Most cities have websites to facilitate completion of the paperwork required for the authorities from the comfort of your home.

Extensive information on the property market can be found in the local papers, which usually publish a large number of accommodation small ads in their weekend editions. Brokers typically charge a commission of approximately two months rent (before expenses) for rented accommodation, and up to six percent (depending on the federal state purchased in) plus value added tax (VAT) if the accommodation is purchased.

**Registration of Residence**

Moving to a German town requires registration at the local registration office (Einwohnermeldeamt). Registration must be performed within one week upon moving into a house or apartment. This applies to all changes of addresses throughout the period of residency in Germany. Registration is free of charge and only requires a short visit to the local registration office.

To register an ID card or passport, proof of the new residence (in the form of a rental or purchase agreement) is necessary. The different municipalities usually have websites that provide information on which office is responsible. The web address is usually listed as www.name-of-municipality.de (for example www.berlin.de).
Assistance for Families

Child Support

In Germany, families are given special consideration in the German constitution or “Basic Law” (Grundgesetz). Families benefit from numerous family-oriented regulations, such as tax benefits for married couples and child support.

The government pays an allowance of EUR 184 per month for each of the first two children, EUR 190 per month for the third child, and EUR 215 per month for every additional child.

Foreigners can apply for child allowance (Kindergeld) as soon as they possess a valid settlement permit. The allowance can be applied for at the family benefits offices of the local job centers (Familienkasse der Bundesagentur für Arbeit). Applications have to be filed in writing upon presentation of the child’s birth certificate. The necessary forms can be downloaded from the website of the Federal Employment Agency (Bundesagentur für Arbeit).

Parental Leave

Since 2007, parents have been able to file for parental leave and receive 67 percent of their net income (up to a maximum of EUR 1,800 per month) as a parental allowance from the government for a duration of up to 14 months.

For information on special regulations for pregnant employees, please refer to Maternity Leave in the Employment in Germany chapter. Foreigners can apply for parental leave as soon as they possess a valid settlement permit.

The Kindergarten

In Germany, every child between the age of three and six has a legal right to a kindergarten place. Many kindergartens also offer care for babies.

Kindergartens, childcare centers, and crèches are mainly run by the municipalities, churches, and charitable organizations as well as by companies and associations. The Youth Welfare Offices (Jugendamt) of the communities can provide information on communal kindergartens. Kindergarten place costs vary from community to community and depend on the household income. In addition, parents receive tax benefits for childcare costs.

Germany is home to numerous bilingual child care centers and kindergartens. Their number is steadily increasing, particularly in larger urban centers. The Association for Multilingual Childcare Institutions and Schools (Verein für Mehrsprachigkeit an Kindertageseinrichtungen und Schulen e.V.) provides an overview of bilingual kindergartens in Germany.
Child Care in North Rhine-Westphalia

For children aged three and over, North Rhine-Westphalia has a dense network of day centers. The centers are operated by the municipalities, churches or independent operators such as parents’ initiatives or associations with a particular educational orientation. Kindergartens and day centers are regarded as pre-school educational institutions where children learn how to express themselves in keeping with their age, to understand their environment, and to enter into social interaction.

In larger cities there are also bilingual or international kindergartens such as a Japanese kindergarten in Düsseldorf.

As from 2013 all municipalities are legally obliged to provide care in their day centers for one third of all children up to the age of three. This regulation will enable more parents to find a healthy balance between family and work.

Many day care centers for children have now developed into family centers, offering parents advice and support in matters relating to the health, development and upbringing of their children in addition to child care. Furthermore, care times for children of preschool and school age are to be increased.

More information is available at:
www.familienzentrum.nrw.de

German Education System

Educational opportunities in Germany are diverse, easily accessible, and excellent. Public schools are free, teachers highly qualified, and student qualifications internationally recognized. At the secondary level, different types of schools are available to meet a child’s individual abilities and interests (such as music, natural sciences, languages, and sports). More than 400 universities and colleges help make Germany a global leader in research. To learn German, universities, night schools, and adult education centers
offer convenient and affordable alternatives to private language schools as well as a wide range of continuing-education and special interest courses.

**German School System**

Attending a state-run school is free of charge, and it is compulsory for children from the age of six onwards. State school standards are very high. For the first four to six years (according to federal state), children usually attend a local primary school (Grundschule).

At the end of primary school, parents can choose between various types of secondary schools, ranging from lower secondary school (Hauptschule, Realschule) to higher secondary school (Gymnasium) depending on their child’s interests and abilities.

Students who gain a qualification from a Gymnasium can attend university. Students who gain a qualification from a technical or specialized secondary school can attend a university of applied science where the courses are more practically oriented.

Many schools have developed their own profiles focusing on specific areas. There are, for example, schools focusing on natural sciences, languages, music, and sports.

There are also an increasing number of private schools in most metropolitan areas in Germany. Over 70 international schools teach courses in Asian and European languages. The German Education Server provides lists for private, state, European, and international schools in Germany. Most national and international schools offer officially recognized diplomas that qualify for university programs worldwide.

The German Education Server
www.eduserver.de

**Open All-Day School**

In North Rhine-Westphalia, “open all-day schools” have existed for some years. Following the regular lessons, the schools provide afternoon care including lunch, homework supervision, and sporting and musical activities. Applications for places at the open all-day schools must be made individually at the schools themselves.

Students who gain a qualification from a Gymnasium (Hochschulreife) can attend university. Students who gain a qualification from a technical or specialized secondary
school can attend a university of applied science, where the courses are more practically oriented.

Many schools have developed their own profiles focusing on certain areas. There are, for example, schools focusing on natural sciences, languages, music, or sports.

In addition to the three-tier school system there is a large network of comprehensive schools which all pupils can attend after the fourth grade up to “Abitur” (higher secondary school graduation certificate). Comprehensive schools are usually all-day schools.

At the beginning of the 2011/2012 school year, 41 “Gemeinschaftsschulen” (similar to comprehensive schools) are opening their gates for the first time. At these schools the children continue to be taught together following primary school, regardless of the school-leaving qualification they are aiming for. Furthermore, children with and without disabilities learn together in the same classes. Additional, specially trained teachers are provided for these schools according to a prescribed key.

Vocational Schools
Professional training is accompanied by vocational school education. Here the trainees learn the necessary basics specific to their chosen professions and a basic general education.

For young people or adults who wish to gain school qualifications there are evening schools or vocational schools in some municipalities where they can attend courses and acquire the desired certificates. Alternatively, adult education centers also provide the same opportunities.

Foreign and International Schools in NRW
In NR W there are 23 foreign and four international schools. The organization and curricula of foreign schools comply with the school regulations applicable in the respective country of origin. These schools prepare pupils for the examinations and certificates valid in foreign country concerned.

International schools are education establishments with private governing bodies. Here you can obtain internationally accepted degrees which will entitle students to university admission.
The German Education Server provides lists for private, state, European, and international schools in Germany.

More Links to Organizations of European and Private Boarding Schools:

European Schools/Schools Focusing on Foreign Languages
www.fmks-online.de
Information on Boarding and Private Schools (only partly in English)
www.privatschulen.de

Dual Education System

Around 60 percent of all young people learn a profession within the dual system of vocational education and training. The system is called “dual” because vocational training takes place both in the company and in part-time vocational school. In the company, the apprentice receives practical training which is supplemented by theoretical instruction in the vocational school.

There are around 350 state recognized training occupations. The period of training is usually two to three years and is concluded by a state examination. During this time, the apprentice is financially remunerated. Access to this training is not formally linked to a specific school certificate. However, most employers expect secondary school graduation at least. The level of the degree depends on the requirements of the specific occupation. The system is based on statutory training regulations and administered by the Chambers of Industry and Commerce (Industrie- und Handelskammern, IHK).
Higher Education

Germany is home to a number of different types of higher education institutions catering different programs of study. University education traditionally has a very high standing in Germany. The characteristic feature of German universities lies in their pronounced focus on academic teaching and research.

The majority of German universities are state-run. The government provides the main funds for universities. However, since 2007, many universities have introduced minimal tuition fees of up to EUR 500 per semester.

Universities of applied sciences (Fachhochschulen) are responsible for providing practice-oriented training to prepare students for occupations which require the application of academic knowledge and methods or practical artistic creativity.

Colleges of art and music (academies, schools, conservatories, etc.) and the corresponding departments at some universities provide training in the fine arts, design, performing arts, and music.

University Degrees

Traditional German university degrees are the “Diplom” in the natural sciences, engineering, and social sciences; and the “Magister” in languages and cultural studies. These degrees are equivalent to an international Master’s degree, as they require around four to five years of study.

In 1999, the members of the European Union agreed to standardize and harmonize university degrees. Since then, German universities have been in the process of restructuring their degree programs, and have introduced a number of new Bachelor and Master programs. The online “Studienwahl” information service provides a list of universities and degrees available.

The University Landscape in North Rhine-Westphalia

With a total of 59 universities and universities of applied sciences, North Rhine-Westphalia has the densest university network in the whole of Germany. Students can study any subject in North Rhine-Westphalia and have the opportunity to specialize at an early stage. North Rhine-Westphalia thus also offers the most wide-ranging university program in Germany.

The University of Cologne and RWTH Aachen University number among Germany’s Universities of Excellence. Via this program the universities receive additional funds for innovative research projects.

Starting with the 2011/12 winter semester the universities in the state of North Rhine-Westphalia no longer charge tuition fees.
Foreign University Students

Foreign students can benefit from a multitude of partnership agreements between German and foreign universities. For courses of study that only permit a limited number of students (*numerus clausus*), foreign students have a privileged university place quota.

Information on universities in Germany and the acceptance conditions for non-German students is available from the German Academic Exchange Service (*DAAD*).

German Academic Exchange Service (DAAD)
www.daad.de

Health System

German cities have close-knit networks of general practitioners, specialists, and dentists. Top medical experts treat patients in both university clinics and specialized clinics. This comprehensive care is made possible by a separate insurance system. Almost every resident in Germany is a member of a public or private healthcare scheme.

The Public Healthcare Scheme

All employees can choose their own health insurance provider. A common fund exists for all other social security components.

Employees earning a gross wage of less than EUR 4,125.00 per month are compulsorily insured by one of the public health insurance providers (*Gesetzliche Krankenversicherung, GKV*).

Employees whose earnings are above this income threshold can choose from both public and private insurance companies (*Private Krankenversicherung, PKV*). Employee and employer also share the premiums for private health insurance plans.

On January 1, 2011 a new healthcare law came into force. The average statutory health insurance contribution rate is now 15.2%. The maximum employer’s contribution has been fixed at 7.3%. Health insurance companies that cannot get by on the contributions may only charge the insured employees for an additional contribution – but not the employers.

Private Health Insurance

Anyone who earns more than EUR 4,125.00 per month or is self-employed can choose private health insurance (*Private Krankenversicherung, PKV*). The premiums for private health insurance are based on the personal risk profile of the policy holder, and are therefore lower for younger people and increase as the policy holder gets older.
Ensuring Quality of Life

Leisure Opportunities

Germans treasure their free time and make sure that leisure activities are accessible, affordable and fun. Whether by air, sea, rail, or road, getting to vacation or tourism destinations within and outside of Germany is simple and stress-free. Sports facilities and health clubs exist everywhere and cater to all needs. Outdoor recreational opportunities are located in beautiful settings close to major cities.

Over 12,000 festivals are held annually, spas and getaways dot the landscape, and farmers’ markets and second-hand exchanges welcome both the culinary and the curious. World-class cinematic, theatrical, and musical offerings are available to match any taste, schedule or budget. 6,155 world-class museums and 33 UNESCO World Heritage sites are at hand to educate and delight visitors.

Foreign Driving Licences in Germany

Germany has different categories of licenses for operating heavy trucks, cars, and motorcycles. Foreign driver’s licenses are usually recognized by the German authorities. However, a national driver’s license must first be translated if it was not issued by one of the European member states or a country belonging to the European Economic Area (EEA).

German translations can be performed by the German automobile clubs (most common is the ADAC) or internationally recognized automobile clubs of the issuing state. A translation is not required for international driver’s licenses. The Federal Republic of Germany waives the need for a translation for some countries (Andorra, Hong Kong, Monaco, New Zealand, San Marino, Switzerland, and Senegal).

Foreign driver’s licenses not issued in a country belonging to the EU or EEA only retain their validity for six months after the driver has taken up residence in Germany. After this period, permission to drive expires, and a German driver’s license must be obtained.

Motor Liability Insurance

A prerequisite for the registration of a motor vehicle in Germany is a motor vehicle third party liability insurance policy (Kraftfahrzeug-Haftpflichtversicherung), which is mandatory. The use of a motor vehicle is not covered by general private liability insurance, which, unlike the motor vehicle third party liability insurance policy, is optional.

However, private liability insurance is also recommended as it insures the policy holder and his or her family against claims for damages. As the liability of private persons is not limited under German law, the importance of private liability insurance should not be underestimated and is generally advisable.
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