

## Benefitax: Establishing a Business in Germany

FRANKFURT, GERMANY, Nov 11, 2011 - (JCN Newswire) - Benefitax, German chartered accountants in Frankfurt am Main, recommends purposeful preparation for the German market to companies who want to sell their products in Germany. Taxation and organizational traps can be very costly.

Access to the German market is usually accomplished via a representative office, a branch or a subsidiary. Those who only desire a small investment will found a representative office. Since a representative office does not exist under German law, it is treated as a direct investment of the parent company. Disadvantages of the representative office include more difficult or impossible reimbursement of input VAT and the lack of acceptance among German customers. Oliver Biernat, managing partner at Benefitax GmbH, warns: "When a representative office pursues certain activities in Germany for long periods of time or the German employees have far-reaching power to contract, a permanent establishment is involuntarily founded. In this case, the fiscal authorities will demand bookkeeping under German law and the taxation of profits allocated to Germany."

A branch registered in the commercial register is an alternative. Branches have to maintain accounting records, determine profits and pay tax on the same. In terms of income taxation, there is little difference compared to a German subsidiary. However, the "standing" of branches is less favorable. The parent company also has direct and unlimited liability for obligations. This is why chartered accountant Biernat advises founding a subsidiary.

The legal form of GmbH is almost always recommended for subsidiaries. Prior to founding, it is necessary to verify whether the company name is permissible. The founding shareholders should come to Germany for the foundation. Since the existence of the foreign investors from certain countries (e.g. India), due to the lack of an official company register, are not recognized in Germany, the German embassy should be contacted to clarify whether the registration court can enter the GmbH into the German commercial register. Otherwise detours are required.

Banks are obligated to examine new customers for suspicion of money laundering, and sometimes refuse new customers from "critical" countries. This is why various banks should be contacted, since the entry in the commercial register can only take place if at least 50% of the minimum share capital of EUR 25,000 has first been paid into a bank account.

Based on bad experiences with VAT carousel transactions, the fiscal authorities examine the tax registration of the foreign investor in detail before issuing a tax number. Invoices cannot be sent out without a tax number. If all documents are issued immediately, a GmbH can be registered and ready to operate within two weeks. For more information and to order our "Law and Tax Guide", visit: [www.benefitax.com](http://www.benefitax.com). To be continued.

Benefitax is a tax consulting and public audit company in Frankfurt, Germany, focussing on financial administration of foreign owned German entities and international taxation.

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## Traps When Running a Business in Germany

*Benefitax German chartered accountants in Frankfurt am Main, warns against typical mistakes when operating a subsidiary in Germany.*

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Frankfurt, Frankfurt, November 27, 2011 /[India PRwire](#)/ -- Benefitax German chartered accountants in Frankfurt am Main, warns against typical mistakes when operating a subsidiary in Germany. Investors often want to appoint non-German employees or shareholders as managers in Germany. While this is possible, it can make the German company liable for tax abroad.

Insofar as foreign managers want to live in Germany, they must receive a sufficient salary from the German company to afford an adequate lifestyle in Germany. The management salary in a developing country may be considered too low in Germany.

Oliver Biernat, partner at Benefitax, has this advice: "For business trips, employees should be required via a travel cost guideline to keep records for their trip. Only then can the cost of meals be paid out tax-free up to certain limits." Non-cash benefits such as the private use of company cars, company housing, gifts and incentives are where applicable subject to payroll tax and contributions to the social security carriers. While the employer can assume the tax, this is very costly as a rule.

Corporations often want to handle bookkeeping for the German company using their software in their own country. This is problematic if the clerk does not speak German and is not familiar with German commercial and / or tax law. IFRS and foreign law are not recognized in Germany. The fiscal authorities can conduct audits at any time. All original vouchers must be stored in Germany and presented at short notice. The fiscal authorities can also demand all material contracts to be submitted in the German language or a notarized German translation. This is why tax expert Biernat recommends bookkeeping in Germany with monthly reporting to the parent company.

All corporations must prepare books, financial statements in German and submit tax returns. Larger and newly founded companies have to submit a provisional VAT returns within ten days after month-end. In addition to commercial financial statements, deviating tax statements to assess the tax base are usually required. An obligation to have the financial statements audited only exists if two of the following three criteria are met on two subsequent financial statement dates: sales revenues in excess of EUR 9.68 million, total assets in excess of EUR 4.84 million or over 50 employees.

For more information and to order our "Law and Tax Guide", visit: [www.benefitax.com](http://www.benefitax.com).

### Notes to Editor

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## Traps When Optimizing the Tax Structure of a German Unit

(Posted on [Marketwire - Breaking News Releases \(English Only\)](#) at Thu, Dec 08, 2011 at 01:57PM)

FRANKFURT, GERMANY--(Marketwire - Dec 8, 2011) - Benefitax German chartered accountants in Frankfurt am Main, advises investors to examine the German tax system intensively and in a timely manner. Otherwise unpleasant surprises await. The tax rates on corporate profits are approximately 30% in major [\(visit source article\)](#)

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## Traps When Optimizing the Tax Structure of a German Unit

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Benefitax German chartered accountants in Frankfurt am Main, advises investors to examine the German tax system intensively and in a timely manner. Otherwise unpleasant surprises await. The tax rates on corporate profits are approximately 30% in major centers and somewhat less in rural areas. Since the tax rates are lower in many countries, the German tax authorities verify that the profit of the German subsidiary has not been reduced through measures internal to the company.

Losses can be carried forward for an unlimited time and loss set-offs with other group companies are sometimes possible. Withholding tax of 26.4% is usually deducted from distributions to shareholders. For EU parent companies or via double taxation treaties, withholding tax can be reduced to as low as zero percent. An application for exemption should be submitted several months before the distribution.

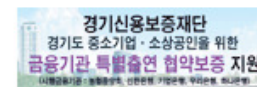
International tax planning can drastically reduce the group's corporate tax rate. According to Benefitax partner Oliver Biernat, the most common models are the substitution of dividends with loan interest, royalties or fees, or the use of foreign holding companies. For the latter, using a holding company without substance which merely consists of a mailbox in a tax haven must be avoided since those are not recognized by the German tax authorities.

An alternative is the definition of transfer prices for intragroup deliveries and services. The larger the German company is, the stricter the requirements for documentation of transfer prices and proof that they correspond to what would have been negotiated with third parties (dealing at arms' length). If adequate transfer price documentation is not provided within 30 or 60 days from the date the fiscal authorities make a request, they can make (high) estimates. Then the taxpayer is forced to pay unless proof of a different transfer price can be provided. Tax expert Biernat therefore has this advice: "Prepare transfer price documentation that meets the German regulations. In this case, the fiscal authorities have to prove that the chosen transfer price is incorrect. This is an effort the fiscal authorities will hesitate to make and only undertake when large sums are involved."

VAT, unknown in many countries, is accounting for an ever-growing proportion of tax revenues in Germany. The regular VAT rate is 19%. Errors, e.g. when issuing invoices, can get very costly. While German VAT law is largely harmonized with European law, it is very nontransparent and error-prone due to amendments, numerous exceptions and complicated, detailed rules.

For more information and to order our "Law and Tax Guide", visit: [www.benefitax.com](http://www.benefitax.com).

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