CR & Cie.

CHAMBERVELT ROOSELAIN & Cie. Ltd.

New German capital gains tax (ABGELTUNGSSTEUER) - what you need to know and what you need to do about it!

Overview of changes

This free information is provided to you courtesy of Chambervelt, Rooselain & Cie. Ltd.—your truly independent financial advisor for Expats in Germany

25% tax on investment!

Starting Jan. 1st 2009, Germany introduces new capital gains tax

With the start of the new year 2009, Germany will see a major change as a number of investments—or rather the profits from these investments—will be taxed henceforth differently with a flat rate of 25%. Many forms of investment which in the past have been exempt from taxation will now suddenly be taxed severely—time to learn more about this new tax and to check, what steps have to be undertaken in order to optimize your pension plans and investments, both current and future ones.

In a survey by JP Morgan Asset Management in September 2009, still close to 20% of the German population has no knowledge about the up-coming ABGELTUNGSSTEUER even though German banks and insurances are bombarding them with invitations to receive their advice or simply buy their products in order to avoid this tax as much as possible.

Even of the other 80% of Germans with some knowledge about the new tax, only a minority so far sees reason to change their current investments or switch to other forms of saving and investment plans (only 8.2% according to the JP Morgan survey), while nearly 33% of Germans have no intentions of changing anything at all in their portfolios. Since Germans have on the one hand among the highest savings rate per capita within the OECD nations, but on the other hand the poorest average yield on those savings, your German friends and neighbors might not be the ideal examples to follow or even to get good, unbiased information from. Nor can you trust the average German banker or insurance agent to give you unbiased and really helpful advice—they are usually selling to you, rather than ad-vising you. With this little brochure we are trying to provide the Expat community with detailed information about the extent and the details of the new capital gains tax.

Furthermore, you will find some warnings about what to avoid—since German banks and insurances have already introduced numerous "Tax-saving" products, most of which will not be worth your money and some of which may even make things worse for you. And of course you will find some general tips and ideas about what to do in order to optimize your current and future investments.

We hope you'll find the information provided here helpful and appreciate any feedback and comments from you to make it even better in the future.

Cheerio ***Patrick Oliver Ott***

For more information please call us at 0700-226525688 or send an email to info@crcie.com

Talk to your financial advisor AND your tax advisor about it now!

According to German law, individual tax advice is limited to registerd and licensed tax advisors. Therefore we at Chambervelt, Rooselain & Cie. are only allowed to give you general information about tax effects and results with regards to investments or insurances within our process of financial advice. Since it may be time not only to check out your current pension , savings and investment plans but also your overall tax situation in generał with regards to the new tax, please do contact your tax advisor. A large number of our clients are already working with Thomas Zitzelsberger from Expattax.de, with whom we are happy to co-operate whenever our clients need more tax advice than we are able or allowed to give. Therefore, if you don't know whom to turn to, contact Thomas Zitzelsberger directly at tz@expattax.de or call him on 089/78018197

About the author:

The author, Patrick Oliver Ott is a senior financial advisor at CR & Cie.

Qualifications: While being a certified banker (IHK) by profession, he also holds degrees in "International Taxation" from Harvard Law School and a Master-Degree from Harvard John F. Kennedy School (MPA, Class of 2000).

Experience: Before starting with CR & Cie. he used to work for Bayerische Vereinsbank, Bankhaus August Lenz and American Express International Banking. For several years he has specialized in advising English speaking Expats in Germany in all financial areas, whether it be insurance, investment and pension planning or finding a good mortgage for real estate investments.

Dedication: At Toytown Germany he regularly gives free advice in the finance chat under his a.k.a. "Starshollow".

Personal facts: He is 41 years old, married, father of a daughter (3 months) and lives near Munich, enjoys reading, teaching at a number of colleges and universities (Strategic Negotiation and Decision Making) and the odd golf game if he finds the time.

For direct contact:
patrick.o.ott@crcie.com

Read in this edition:

How the new flat tax works and what becomes different in 2009

Until the end of this year, many forms of investment—for instance in stocks or funds—are exempt from tax on their profits if one has kept those investments for longer than one year. For other forms of profits, such as dividends, the so-called "*Halbeinkünfte-Verfahren*" was applied by taxing only half of the profits with one's normal income tax rate instead..

All these special rules are going to end come January 1st 2009 and they will be replaced by a flat tax of 25% (plus SOLI and church tax, where applicable), resulting in a max. tax burden of actually more like 28% for future profits from investments. This also means: any investment you make before the end of the year will be taxed according to the old rules (or be exempt from taxation) even if it matures or you sell in 10 years from now or beyond. Therefore it is time to check your assets and act now.

There will still be a few remaining exemptions as you can see in our table on the next page, mostly for real estate investment (direct or through a fund), certain forms of pension plans and combined life-insurance/savings products as well as for so-called "*Geschlossene Fonds*" where you usually become shareholder of a corporation/ blind-pool to invest in either ships or real estate or private equity to name just a few. But even among those exemptions the tax results vary a lot and it is well worth your time to check out the table on the right hand side to see how your own investment portfolio will be touched by the new capital gains tax. Since Germany taxes you on your worldwide income/assets, as an Expat who may have assets abroad please consider the effects from the new tax on your investment funds, offshore pension plans or real estate abroad—especially if you plan to sell and re-invest any of your assets abroad while still being a tax resident in Germany.

An investment made before the end of the year will be taxed according to the "old" rules even if it matures or will be sold 10, 20 or 50 years hence! This is why it is important to act now!

Things to do and things to avoid now……………

On the next page you'll find a table with a large selection of investment forms and how their taxation will be changed through the new capital gains tax. If you have more questions with regards to a particular investment, please do not hesitate to contact us for advice. In general, <u>here is what you should do now</u> in order to prepare yourself for the upcoming new capital gains tax:

1. Separate "old" investments from future investments in your accounts! In order to avoid problems with the tax authorities if an investment you sell in the future falls under the old or new taxation rules, put all new investments after 2008 in a separate account, in Germany as well as abroad

2. Check your current portfolio: if you were planning to sell and re-invest anything next year, see if you can not bring this re-investment forward so that you can invest still this side of 2009 and get your investment's profits tax free

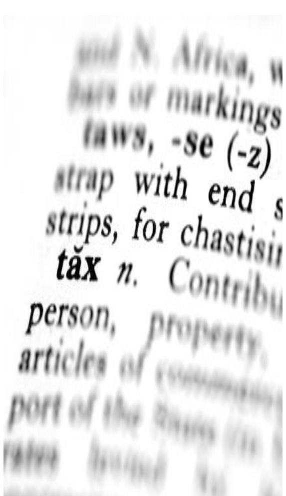
3. Check if your current pension plans /saving plans are worth continuing and if it does not make sense to switch to, for instance, a RIESTER plan—find more about this on page 4

4. Talk to your tax advisor if by selling some assets now with a loss you can carry over losses to write off against future profits

<u>And here are things to avoid</u>: Banks and insurances are currently trying to sell special newly developed products. Be very cautious about those solutions to "avoid" the new tax:

1) *DACHFONDS*: banks have created a large number of special umbrella funds (fund in funds) as an innovative way to get around the new tax. However: these will most often not be the right choices for you to tackle the tax-problem since they have no track-record -no-one can be sure in any way of how they are going to perform in the future–while on the other hand a multitude of such funds with solid track records are available already. You can't even know if these new funds are sustainable at all. New funds are sometimes forced to close soon after their introduction for cost reasons, which would then create exactly the tax problems you tried to avoid in the first place. Read more about this on page 4.

II) *FONDSPOLICEN*: insurance companies are offering savings plans combining fund-investment with a life-insurance. These insurance products are usually too expensive to have a positive effect, and many of them are not even certain to be accepted by the tax authorities regarding the advertised tax effect. Often a RIESTER-Fondssparplan will be a far better option. Ask your advisor about such plans <u>without upfront cost-deductions</u>…….



Overview of changes through the new capital gains tax for the different types of investments—per Oct. 2008

Type of investment	Profit through interest	Profit through dividends	Profit through sale (appreciation of value since purchase)	Tax on investments made prior to 31.12.2008	Tax on investments made after 01.01.2009
Cash accounts/Interest accounts/Savings accounts	X			All profits/yield in excess of your individual/ family tax-exemption limit are taxable at your income taxation rate	All profits/yield in excess of your individual/ family tax-exemption limit are taxable at the new flat tax of 25% (plus SOLI and Church Tax)
Bonds	X		X	Profits from interest are taxable just like above. Profits from appreciation of the bond on maturity/sale are tax free if held for longer than 1 year	Interest taxable as above, profits from appreciation now also taxable at 25%+ regardless of how long you hold the bond
Stocks/Shares		X	X	Dividends are taxed at 1/2 your income tax rate, profits from the appreciation in value are tax-free if held for more than 1 year, otherwise fully taxable at your income tax rate	Dividends and the profit from sale (through appreciation) are now taxable at 25%+ regardless of duration of possession
Funds (equity, mutual, bonds)		X	X	Dividends are taxed at 1/2 your income tax rate, profits from the appreciation in value are tax-free if held for more than 1 year, otherwise fully taxable at your income tax rate	Dividends and the profit from sale (through appreciation) are now taxable at 25%+ regardless of duration of possession
Funds in Funds or Umbrella Funds (Dachfonds)		X	X	Dividends are taxed at 1/2 your income tax rate, profits from the appreciation in value are tax-free if held for more than 1 year, otherwise fully taxable at your income tax rate	Dividends and the profit from sale (through appreciation) are now taxable at 25%+ regardless of duration of possession. Only advantage: the umbrella fund can sell and buy funds within the fund without falling under the new capital gains tax. But the profits at the end of the time are taxed nevertheless
Real estate funds (publicly listed)			X	Profits from the appreciation in value are tax-free if held for more than 1 year	If the appreciation of the fund value comes from an internal sale of real estate kept longer by the fund than 10 years, this increase in value remains tax free for the fund investor.
Fund savings plan (including VL)		X	X	Dividends are taxed at 1/2 your income tax rate, profits from the appreciation in value are tax-free if held for more than 1 year, otherwise fully taxable at your income tax rate	Dividends and the profit from sale of fund-shares bought before 2008 remain under the old taxation rule; all shares bought after 2008 become taxable at 25%+ regardless of duration of possession
RIESTER pension plan	X	X	X	For the pension investment within the max. thresholds for subsidies and tax-breaks (max 2.100.– EUR/year): the profits are taxable at the then actual income tax-rate. For investments in excess (Überzahlung): if you kept the investment for more than 12 years and do not cash in before you turn 60 years old, only half of your then actual income tax rate will be levied on the profits	no change!
RÜRUP pension plan	X	X	X	Investment tax-deductible now, profits later fully taxable	no change!
Capital Life insurance plan	X	X		Plans started before 2005 are tax free for the profits generated (if certain min. re-quirements are fulfilled), plans started after 2005 are taxed at half of your income tax rate if held longer then 12 years and cashed in after turning 60 years old, other-wise fully taxable	no change!
Combined Fund/Life insurance plans (Fondspolicen)	X	X	X	Plans started before 2005 are tax free for the profits generated (if certain min. re-quirements are fulfilled), plans started after 2005 are taxed at half of your income tax rate if held longer then 12 years and cashed in after turning 60 years old, other-wise fully taxable	WARNING: the government is changing the rules for those at the end of the year, since more and more plans have emerged with a small insurance umbrella in order to make the fund investment more tax attractive. Probably serious coverage for biometric risks has to be part of the plan in order to allow its taxation under the life-insurance rules. If this happens the costs for these plans will far outweigh the tax effects!
Derivatives/Zertifikate	X	X	X	Dividends are taxed at 1/2 your income tax rate, profits from the appreciation in value are tax-free if held for more than 1 year, otherwise fully taxable at your income tax rate (exceptions for some derivatives exist considered to be "Finanzinnovationen" and thus taxed in full)	Interest, dividends and the profit from sale (through appreciation) are now taxable at 25%+ regardless of duration of possession
Alternative investments (shares/ participation in corporations not publicly listed) in real estate, private equity, hedge, ships, containers, windmills and more			X	Different tax rules for ships, containers, real estate etc.	Different tax rules for ships, containers, real estate etc., most do not fall under the new capital gains tax (but normal income tax rates will be levied later, for instance).
Real Estate			X	rental income is taxable with other income, profits from appreciation are tax free after holding on for 10 years	no change!

At Chambervelt, Rooselain & Cie. we specialize in catering to the needs and wishes of ExPats all over Germany. We offer independent and unbiased advice in all financial areas, whether you are looking for insurance or help with your pension planning by implementing all possible tax savings offered in Germany into your saving plans for this purpose, something which makes a lot of sense even if you do not plan to stay in Germany for ever. In addition we advise you in general investment strategies, custom-tailored to your individual situation and plans as well as offers to broker mortgages for your real-estate purchases in Germany. Basically, what we can do for you is take the misery out of dealing with financial issues while you live and work in Germany, and provide you with the expert service you know from home and which you deserve even more in an environment with strange and complicated rules and laws like Germany.

Simply enjoy your life in Germany, while we take care of the rest in all financial areas.

CHAMBERVELT,
ROOSELAIN & Cie. Ltd
(German office)
Starnberger Str. 29
D—82069 SCHÄFTLARN

Fon: 0700-226525688
Fax: 0700-226525688
E-Mail: info@crcie.com

Check out our website: www.crcie.com

Some tips & tricks for better investments:

Following are a couple of concrete recommendations about what you can do with regards to the new tax. Of course these recommendations can only be of a general nature and you should consult a professional advisor to discuss these in detail to see, if and how they fit to your personal situation and your individual investor-type profile.

Carry-over losses from 2008 to the future: If you have currently made losses with investments in shares, bonds or funds which you held less than one year, you should realize these losses now by selling these investments. You can write off these losses against future profits from such investments until 2013. Even if you actually want to hold on to the investments, sell them now and re-invest in a couple of weeks.

Fund saving plans

1.Change to RIESTER-plans: if you are putting larger amounts monthly into savings plans investing in funds you might want to consider switching these investments into a RIESTER Fondssparplan without upfront deduction of all costs (if you are not sure which those are, contact your advisor). While all your "normal" fund investments starting 2009 will be taxed at 25% on their profits at the end, investments in a RIESTER plan will be taxed only at 1/2 your income tax rate later, if you pay in for at least 12 years and do not cash in before you turn 60 years old. You should also check out your Offshore pension plans, if they fall under the same rule, i.e. if they are accepted as pension plans in Germany or not, otherwise it could happen that you have to pay more taxes later.

II. Avoid so-called Fonds-Policen, where the same effect like in a RIESTER-plan is supposed to come from a combination of a life-insurance with a fund-saving plans: a high percentage (30-40%) of your monthly payments will go into the risk coverage, administrative costs and commissions and will not be invested at all. Thus you end up worse than if you would have paid into a normal fund-saving plan instead and paid your tax at the end.

III. Avoid NEW Dachfonds - fund-in-fund solutions: All German banks and other financial institutions have issued a large number of new DACHFONDS, a fund-in-funds investment product. The idea—not exactly new—behind this is that the fund-manager can buy and sell funds within this construction without being liable for the new capital gains tax. The tax will only be levied on the total profit at the end when realized.

WARNING! a) The new funds offer no track record—hence you invest blindly—whereas similar concepts are on the market for a long time already where you can see what you invest in instead. b) Costs are rather high, because the fund-in-funds management costs money on top of what the single funds already charge. Often banks try to sell you a fund which invests mainly in their own other bank issued funds. They will therefore charge you costs twice -something to avoid. c) A large number of these new funds will not become large enough to be sustainable and will therefore be closed in a couple of years - which will then cause you exactly the additional tax losses you wanted to avoid. If you want to invest in such DACHFONDs, pick only those that are already on the market for >5 years, like for instance CARMIGNAC PATRIMOINE or, if you can stomach more volatility, WALLBERG MANAGER SELECT or C-QUADRAT ARTS BEST MOMENTUM, to name just a few examples with a good track record. For concrete recommendations, contact your advisor.

Tax exempt investment with "Offene Immobilienfonds" Real Estate funds which are publicly traded do offer tax exemption on part of their profits if they held the properties for longer than 10 years. Such funds are for instance GRUNDBESITZ GLOBAL or KANAM GRUNDINVEST, where up to 100% of the profits are tax exempt. The first one has even generated 5.84% during the last 12 month and 20,3% over the last three years. Well worth your money!

Different tax treatment for "Geschlossene Fonds": these funds usually invest for instance in ships, containers, real estate or windmills and you become a co-owner of the investment. These investments are not liable for capital gains tax and will be taxed with your income—leaving you or your tax advisor room to maneuver by offsetting other losses or profits in a clever way against the profits from these investments. However: they usually require a min. investment of 10.000—20.000 EUR and will bind your capital for 10-20 years, thus they are only suitable for experienced investors with a long-term time horizon.

We hope you enjoyed this little list of tips for more details and individual advice ask your financial advisor or contact us (see contact info on the left)

Cheerio ***Patrick Oliver Ott***