



### Thomas Gericke

#### Counsel

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#### Frankfurt

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Thomas Gericke focuses on multinational enterprises in structuring their cross-border activities, assisting with the implementation of respective structures, particular in post-merger integration settings.

He further supports clients to negotiate Advance Pricing Agreements for these structures and to defend them in tax audits.

Thomas advises clients on audit and changing their price setting from “reactive to proactive” under consideration of the arm’s length principle.

From a transfer pricing perspective, he also advises and assists clients in case where tax return corrections are required under the German Fiscal Code (Sec. 153) and advises clients with regard to self-disclosure in case of tax evasion.

He further gives advice on tax audit adjustments via mutual agreement/arbitration procedures under both, tax treaties and the European Arbitration Conventions respectively.

• Transfer Pricing

English German

## LANGUAGES SPOKEN

- English
- German

- Designed the transfer pricing set-up for North Americas and filed a unilateral APA in the U.S. for a fast-moving consumer goods multinational group.
- Analysed multiple management services from a transfer pricing point of view for a US-based multinational pharmaceutical corporation, implemented a shared service allocation model to charge out respective costs to the group entities, and documentation of the new transfer pricing model.
- Re-assessed the profit allocation to permanent establishments within 27 different jurisdictions on a two-year project including tax return corrections according to Sec. 153 AO (German Fiscal Code) for a German based construction group company. Implemented guidelines for the client to identify permanent establishments.

- Agreement Procedures (MAP)/EU Arbitration to avoid double taxations and to resolve transfer pricing disputes; and worked and completed Advance Pricing Agreement (APA) for a multinational automotive supplier.
- Led complex Value Chain Analysis/Value Chain Transformation projects for a leading retail client; coordinated the projects; acted as client contact and mediated the needs to the team and project partners.
- Analysed current operational business models and provided recommendations for improvements; designed, implemented new transfer pricing models. Filed corrected tax returns and declarations to be in-line with Sec. 153 AO. Monitored new models under the new structure; developed transfer pricing guidelines.

## CREDENTIALS

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### Professional Qualifications

- Rechtsanwalt admitted with Rechtsanwaltskammer Frankfurt am Main

### Prior Experience

Before Thomas joined DLA Piper in October 2019, he was a Transfer Pricing Senior Manager in Frankfurt of a "Big Four", where he moved to in 2008. Initially joined the firm's Corporate Tax division in 2001. Thomas was on a secondment in New York Transfer Pricing from 2013 to mid-2016.

### Recognitions

- *Handelsblatt* in cooperation with *Best Lawyers 2022*: Recommended for tax law

### Education

- Specialist lawyer for tax law, 2007
- Regional Court Darmstadt, Second State Examination, 2000
- Johannes Gutenberg University Mainz, First State Examination, 1997

### Additional qualifications

- Certified adviser Criminal Tax (DAA), 2019

## INSIGHTS

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### Publications

- Extraterritoriale Einkünfteabgrenzung, Bestimmung des Anteils der Einkünfte iSd § 49 Abs. 1 Nr. 2 Buchst. f Doppelbuchst. aa EStG aus Vermietungen und Verpachtungen zwischen zwei ausländischen verbundenen Unternehmen, in: Internationales Steuerrecht 2020, p. 833-840 (with Dr. Ulf Andresen, Wolfgang Reul and Thore Holtrichter)
- Hervé/Gericke/Gimmler; C.H. Beck Verlag, BC 2012, 552 et seq. "Tax implications of license structures with regard to the transfer of business functions"
- Hervé/Gericke/Gimmler; C.H. Beck Verlag, BC 2011, 215 et seq. "Tax effects with regard to transfer of business functions, example transfer of production"
- Hervé/Gericke/Gimmler; C.H. Beck Verlag, BC 2011, 62 et seq. "Tax effects with regard to transfer of business functions, example transfer of distribution"
- Hervé/Gericke; C.H. Beck Verlag, BC 2010, 485 et seq. "Taxable consequences with regard to the transfer of business functions: announcement of the new degree"

## Events

- Since 2018 speaker at the German American Trade Association in Berlin and Stuttgart.

## NEWS

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### **Best Lawyers / Handelsblatt recommends a total of 90 lawyers from DLA Piper in Germany**

24 June 2022

This year, the U.S. publisher Best Lawyers has once again recognized numerous DLA Piper lawyers in Germany in various areas of law.

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### **Best Lawyers / Handelsblatt recommends a total of 88 lawyers from DLA Piper in Germany**

25 June 2021

This year, the U.S. publisher Best Lawyers has once again recognized numerous DLA Piper lawyers in Germany in various areas of law. In total, Best Lawyers recommends 88 DLA Piper lawyers this year.

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