

Tax Short Cuts

Current tax information for Austria from EY

CbCR Safe Harbour Regulation published in the Federal Law Gazette

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On 5 December 2024, the Federal Ministry of Finance (MoF) published the regulation on the Transitional CbCR Safe Harbour (CbCR Safe Harbour Regulation, Federal Law Gazette II No. 357/2024). The regulation based on Sec. 55 of the Austrian Minimum Taxation Act (MinBestG) contains requirements for Qualified Financial Statements and a qualified country-by-country report. In addition, the requirements for the existence of a hybrid structure and the procedure for neutralizing the associated expenses are also defined in more detail. The regulation thus provides guidance for the use of the Transitional Safe Harbour regulations, which leads to nil top-up tax for individual countries in the first few years without need to make the full Pillar 2 calculations. This regulation basically transposes the OECD Administrative Guidance from December 2023 into domestic law.

Pursuant to Sec. 55/3/1 MinBestG a qualified country-by-country report ("CbCR") is given if a CbCR is prepared in accordance with the provisions on country-by-country reporting in the tax jurisdiction of the reporting entity (Sec. 2/11 of the Transfer Pricing Documentation Law - "VPDG", Federal Law Gazette I No. 104/2019) and the CbCR is prepared based on Qualified Financial Statements.

The following three requirements for Qualified Financial Statements have to be met (Sec. 1/3 CbCR Safe Harbour Regulation):

- ▶ Use of certain bases for the preparation (Sec. 2)
- ▶ Uniform use of accounting data (Sec. 3)
- ▶ Consideration of Sec. 4 if purchase price accounting adjustments ("PPA") exist

CbCR Safe Harbour Regulation published in the Federal Law Gazette

Qualified Financial Statements as already listed in Sec 55/3/1 MinBestG are amongst others the accounts used to prepare the Consolidated Financial Statements of the UPE. Sec. 2/2 of the regulation makes clear that the financial accounts are the accounting data used to prepare the consolidated financial statements of the ultimate parent entity and adjusted to uniform group reporting standards for consolidation purposes (reporting packages). Furthermore, Sec. 2/3 explains how to deal with the absence of separate financial statements for permanent establishments.

The requirements set out in Sec. 3/1 and 3/2 CbCR Safe Harbour Regulation for the consistent use of data are in line with previous OECD publications; however, Sec. 3/3 also stipulates that the selected data basis must be consistently maintained for all years in which the CbCR Safe Harbour is used, unless the accounting data is changed due to special circumstances.

The explanations for PPAs contained in Sec. 4 have also been taken from the OECD Administrative Guidance.

The regulation can be accessed via the following link (German version only):
https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2024_II_357/BGBLA_2024_II_357.pdf

Plausibility Regulation for the accelerated deduction of renovation measures for rental and leasing

Income Tax Act

The housing and construction package (Wohn- und Baupaket; Federal Law Gazette I No. 36/2024 of 18 April 2024) introduced accelerated tax deductibility of renovation measures for rental and leasehold properties (Sec. 28/3/2 Austrian Income Tax Act (EStG)), if a subsidy for these renovation measures is paid out or verified as plausible under the Environmental Subsidies Act (Umweltförderungsgesetz).

The criteria for such verification are set out in the regulation published in the Federal Law Gazette on 27 November 2024 (Federal Law Gazette II No. 324/2024).

For further details please refer to our German version of Tax Short Cuts.

The regulation can be accessed via the following link (German version only):
https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2024_II_324/BGBLA_2024_II_324.pdf

Charging of zero-emission vehicles

Remuneration in Kind Regulation

If the employer provides the employee with a zero-emission vehicle for private use, a non-monetary remuneration value of zero must be applied from 2016 in accordance with Sec. 4/1/3 of the Remuneration in Kind Regulation (Sachbezugswerte-VO). In addition, the employer can bear/reimburse the costs of charging this company vehicle. This reimbursement/assumption of costs does not constitute a taxable benefit from the employment relationship, provided that the charging takes place

- ▶ at a public charging station or
- ▶ at a private charging facility ("wallbox") of the employee.

When charging the company vehicle at a public charging station, the actual charging costs must be proven.

When charging the company vehicle at a private charging facility, it must be ensured that the charging quantity is traceably allocated to this company vehicle. The reimbursement of costs is to be calculated on the basis of the average total electricity price published by the MoF. As reported in the Tax Short Cuts, No. 23/2024 of November 12, 2024, the electricity price relevant for cost reimbursement in 2025 is 35.889 cents/kWh. If the private charging device used to charge the company vehicle is demonstrably unable to allocate the charging quantity to this company vehicle, the employer can still reimburse the employee a tax-free amount of up to EUR 30.00 per calendar month in 2025 (Sec. 8/9/2 Remuneration in Kind Regulation).

CJEU: No compensation for loss suffered in case of early contract termination

Value Added Tax Act

In the case C-622/23 (rhtb: projekt gmbh) submitted by the Austrian Supreme Court, the Court of Justice of the European Union (CJEU) had to decide in its judgement dated 28 November 2024 on the distinction between non-taxable compensation for loss suffered and taxable remuneration in the event of early contract terminations.

The CJEU assessed a contractually owed amount that the client had to pay to the contractor because he had terminated a validly concluded service contract, whereby the contractor had already started work and was ready to complete it, as taxable remuneration. The specific case involved a service contract for the construction of a property, which was terminated for reasons not attributable to the contractor, who therefore demanded payment of the agreed remuneration minus the expenses he saved due to the termination of the contract.

The CJEU argues that the taxability is due to the existence of a direct link between the service provided and the consideration received. According to the CJEU, this

CJEU: No compensation for loss suffered in case of early contract termination

cannot be affected by the fact that the client does not exercise the right to fulfill the contract. According to the CJEU, the decisive factor for the VAT assessment was that the amount to be paid economically reflected not only the contractually agreed remuneration (minus the saved or not incurred costs) but also guaranteed the contractor a contractual minimum remuneration. Therefore, according to the CJEU, the payment is not a lump-sum compensation for loss suffered.

Valorization of family allowances 2025

*Family Allowances
Equalization Act
Income Tax Act*

The valorization of family allowances with effect from 2025 was published in the Federal Law Gazette (Federal Law Gazette II No. 314/2024) on 15 November 2024.

Family allowance, multi-child supplement, childcare allowance, family time bonus and the tax credit for children will increase by 4.6% as of 1 January 2025.

Year-end deadline: Mandatory preparation of an annual cash register receipt

Federal Fiscal Code

At the end of each calendar year (even if the fiscal year differs), an annual cash register receipt must be prepared, which also represents the monthly receipt for December. This annual receipt must be signed, printed, reviewed (via the MoF's receipt review app; "BMF Belegcheck") and stored (Sec. 8/3 Cash Register Security Ordinance (Registerkassensicherheitsverordnung)).

The Austrian Economic Chamber has summarized information on reviewing the annual receipt under following link (German version only):
<https://www.wko.at/steuern/pruefung-registriertkassen-jahresbeleg>

MoF: New WiEReG reporting forms

*Beneficial Owners Register
Act*

On 26 November 2024, the Federal Ministry of Finance (MoF) published information on changes to the reporting of beneficial owners according to the Beneficial Owners Register Act (WiEReG) (2024-0.855.919). The WiEReG notification forms used so far were discontinued on 3 December 2024 and replaced by new notification forms. The applicable legal regulations and deadlines regarding WiEReG notifications remain unaffected by this change.

MoF: WiEReG reporting forms

Information on the WiEReG can be found at the following link (German version only): <https://www.bmf.gv.at/services/wierereg/kontakt-wierereg.html>

New version of the Combined Nomenclature from January 2025

CN Regulation

A new version of the Combined Nomenclature (CN) will come into force on 1 January 2025. It has its legal basis in the Implementing Regulation (EU) 2024/2522. A total of 49 new tariff numbers have been included in the new CN regulation and 34 have been declared invalid. The changes and adjustments affect, among others, fishery products, biofuels, liquid urea, wood and wood products, and information technology goods.

The classification of goods in the Combined Nomenclature determines the applicable customs duty and the statistical treatment. However, it is also relevant for the application of VAT and excise duty regulations. It is advisable to check whether your own range of goods is affected by the changes to the Combined Nomenclature and, if necessary, to update the master data in the ERP systems.

The current version of the regulation can be found at the following link: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202402522

MoF: updated information on the EORI self-registration process

EORI self-registration process

The EORI (Economic Operators Registration and Identification) number is used for the uniform identification of economic operators throughout the EU and is intended to facilitate automated customs clearance. The self-registration process for an EORI for legal and natural persons has been in force since 6 June 2024 via the Customs Decisions Austria (CDA) portal (Portal Zoll). Representation by professional party representatives, such as tax advisors, has been possible since 8 August 2024.

Detailed information on the new application procedure is published on the MoF website. The user guide for the new EORI registration was also revised and published at the beginning of December 2024.

The current version of the application help can be downloaded here (German version only): https://www.bmf.gv.at/dam/jcr:e45ebc17-d266-401d-a673-3539e571e4a7/Anwendungshilfe%20-%20EORI%20Registrierung_extern_Stand_03122024_.pdf

Further information can be found on the MoF website (German version only): <https://www.bmf.gv.at/themen/zoll/fuer-unternehmen/eori-registrierung.html>

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