

Austrian Tax News

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Research Premium Guidelines 2025 - Draft

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On 18 August 2025, the MoF published the draft of the Research Premium Guidelines 2025 (Forschungsprämienrichtlinien, FoPR 2025). The review deadline is 26 September 2025.

The [draft of the FoPR 2025](#) (German version only) includes statements on already practiced administrative procedures and case law, as well as new, previously unaddressed issues. Among other things, the draft of the FoPR 2025 includes statements on the following topics:

- Criteria for the assessment of R&D activities, for example in the areas of software development, industrial engineering/design, prototypes, pilot plants, patent costs, etc.
- Delimitation of in-house/contract research, domestic and foreign activities, as well as the beginning and end of eligible research
- Pharmaceutical research, particularly on the topic of clinical studies
- Assessment basis: allocation of costs, determination of overhead costs, investments, direct expenses, financing costs, notional entrepreneur's salary, etc.
- Procedural issues such as FFG assessments or subsequent corrections

The statements in the FoPR 2025 are intended to replace the statements in the Income Tax Guidelines 2000 (Einkommensteuerrichtlinien, EStR) and, according to the draft, are applicable from the calendar year 2026. Note: For tax audits for past periods and open cases, the FoPR 2025 should also be applicable, provided that the statements in the EStR do not provide more favorable regulations for these periods.

In particular, businesses that already apply for research premium should check whether their approach is covered by the FoPR 2025. Any need for action, for example in project documentation or cost determination, should be identified early. But also for businesses that plan to apply for research premiums for the first time, the FoPR 2025 will be an essential interpretative aid.



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ECJ: periodically published Sudoku games booklets are subject to the reduced VAT rate for “printed writings” (“Druckschrift”)

Value Added Tax Act

When determining which goods qualify for a reduced VAT rate based on codes of the Combined Nomenclature (“CN”), it is not sufficient to rely solely on the national (in this case: German) language version in case of discrepancies between the different language versions. Instead, the provision in question must be interpreted by reference to the purpose and general scheme of the rules of which it forms part.

For the CN code 4902 relevant to this specific case, it is therefore not decisive that the printed products consist mainly of text in the form of letter sequences, but rather that they are published under the same title at regular intervals and that each issue is marked with a date and issue number.

In case C-375/24 (Keesing Deutschland), the European Court of Justice (ECJ) had to decide whether periodically published Sudoku games booklets qualify for the reduced VAT rate applicable to “printed writings” or whether they fall under the standard VAT rate.

Keesing Deutschland GmbH, based in Germany, publishes Sudoku games booklets bound in paper at regular intervals, each containing a preface, legal information, an explanation of the rules of Sudoku and an advertisement along with the Sudoku games and corresponding solutions. The title page contains an issue number, issue date and an indication of the frequency of publication (namely every eight weeks).

The German tax authorities challenged the applicability of the reduced VAT rate on the ground that the Sudoku games booklets do not contain any “qualifying text” and can therefore not fall within the concept of printed writings.

In its judgment of 1 August 2025, the ECJ clarified that the use of CN codes is merely one method available to Member States to identify goods eligible for reduced VAT rates and noted that the German legislator has made use of this option regarding supply of printed writings.

Where classification is based on CN codes and language versions differ, the provision in question must be interpreted by reference to the purpose and general scheme of the rules of which it forms part. Considering other language versions of the relevant CN code 4902, the ECJ concluded that this category essentially covers printed matter published regularly, i.e. periodicals. There is no indication that such printed matter must primarily contain written text or consist mainly of letter sequences.

In the present case, provided that the goods at issue in the main proceedings constitute periodicals, which is a matter for the referring court to ascertain, the ECJ holds that they are capable of coming under code 4902 of the CN.

No entitlement to reimbursement under the Energy Tax Reimbursement Act for controlled company within a VAT group

Energy Tax Reimbursement Act

The Austrian Federal Fiscal Court (Bundesfinanzgericht, BFG) clarified in its decision dated 3 July 2025, RV/7100516/2025, that under the Austrian Energy Tax Reimbursement Act (Energieabgabenvergütungsgesetz, EnAbgVergG), controlled companies within a VAT group are not entitled to reimbursement due to their lack of independent entrepreneurial status. Hence, the reimbursement application must be submitted by the controlling entity and the Energy Tax Reimbursement notice must be addressed to the controlling entity.

The facts underlying the decision involved a controlling entity and a controlled company acting as the complainant, which operated a unified production facility for meat and sausage products.

The controlling entity applied for reimbursement of energy taxes for the controlled company's operations for the calendar years 2018 and 2019. Initially, the applications were approved.

However, during a subsequent tax audit, the Austrian tax authorities stated that internal transactions within the VAT group must be included when calculating the net production value. As a result, the reimbursement amounts under the EnAbgVergG were reduced, with the revised Energy Tax Reimbursement notices addressed to the controlled company.

The BFG annulled the notices issued to the controlled company, stating that they were erroneous and unlawful, as the company was not entitled to reimbursement. According to the BFG, the EnAbgVergG essentially adopts the terminology of the Austrian VAT Act. Since a VAT group existed in this case, the controlled company was not considered an entrepreneur and therefore not a potential beneficiary of the Energy Tax Reimbursement. Only the controlling entity, which had correctly submitted the Energy Tax Reimbursement application in this case, shall be eligible.

The decision of the BFG aligns with the interpretation presented in margin note 208 of the Energy Tax Guidelines (Energieabgaben-Richtlinien) of the MoF, which states that in case of VAT groups, the controlling entity must submit a separate reimbursement application for each individual controlled company or business unit to the tax office responsible.

Reminder: mandatory electronic delivery as of September 2025

Federal Fiscal Code Starting 3 September 2025, documents for all businesses required to file an annual VAT return will be delivered only via FinanzOnline. Any previous waiver of electronic delivery will expire on this date and can no longer be used going forward.

As already noted in [Tax Short Cuts No. 10/2025](#), the Federal Fiscal Code (Bundesabgabenordnung) has been amended through the Budget Accompanying Act 2025 (Budgetbegleitgesetz 2025): Beginning 3 September 2025, all documents for businesses obliged to submit an annual VAT return – including small businesses that have opted for VAT liability – will be delivered exclusively through FinanzOnline.

Key points to note about electronic delivery:

- A document is deemed legally delivered as soon as it is available in the FinanzOnline inbox.
- Email notifications are sent when new documents are received, provided a valid email address is in file and the notification function is activated. It is therefore recommended to check in FinanzOnline whether a (correct) email address is in file and notifications are enabled.
- Existing representation relationships remain unaffected – tax advisors will continue to receive deliveries if a power of attorney for delivery is in place.
- Exceptions may apply if electronic delivery is not possible for technical or legal reasons.

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