

Austrian Tax News

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MoF information on the OECD home office permanent establishment update 2025

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The Austrian Federal Ministry of Finance (MoF) published in its [information dated 4 January 2026](#) (2025-1.050.421 (German version only)) a summarized overview of the new statements and examples introduced by the OECD update of 19 November 2025 (see our [tax news dated 22 December 2025](#)).

Whether activities carried out from a home office give rise to a permanent establishment (PE) must always be assessed based on the specific facts and circumstances of each individual case. A home office may constitute a PE pursuant to Article 5/1 OECD Model Tax Convention (OECD MTC) if it qualifies as a fixed place of business of the enterprise, is used for a certain degree of permanence, the exceptions for preparatory and auxiliary activities do not apply, and activities for the enterprise are carried out through that place of business.

Where an employee spends at least 50% of their working time within a twelve-month period working from a home office and there is, at the same time, an economic reason for performing the work from the home office (e.g. contact with customers or suppliers), a PE is generally deemed to exist. By contrast, where the activity is carried out exclusively at the request of the employee or where the share of home office work remains below 50%, a PE should generally not arise. A different assessment may apply where the employee is the only person or the primary person conducting the business activities of the enterprise.

The MoF information largely reflects the update to the [OECD Commentary on the Model Tax Convention](#). According to the MoF, the existing administrative practice (in particular Sec 262 of the Austrian Transfer Pricing Guidelines 2021) may continue to be applied until the end of 2025. As from 2026, the statements published in the OECD Commentary in November 2025 are to be considered authoritative.



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Amendments to the research premium regulation

Research premium regulation On 18 December 2025, the [amendment to the research premium regulation](#) was published in the Federal Law Gazette II No. 302/2025 (German version only).

Relevance of the taxable income determination

Expenses on research and development (R&D) must now be calculated under the provisions governing the determination of taxable income. It is further clarified that any deduction limitations and options within the framework of the calculation of taxable income are the basis for calculating the R&D premium. This new rule applies to all open cases.

Investments in capitalisable assets

The amendment also results in a revised treatment of direct investments in capitalisable assets as from the 2026 calendar year. For purposes of determining the premium base, an investment may now either be taken into account at the level of the "total expenditure" (i.e. the relevant value of the depreciation base; in the case of the initial R&D use of an already existing asset: the book value at the beginning of the financial year), or (new) at the level of depreciation attributable to the financial year at the actual extent of use.

Where total expenditure is taken into account, a careful assessment is required to ensure that, at the time of the initial R&D use, the asset is continuously used for R&D purposes throughout the sustainability period. This period begins in the month following the initial R&D use and amounts to half of the (remaining) useful life, subject to an overall maximum of ten years. Total expenditure must be taken into account in proportion to the actual extent of use.

If the extent of R&D use during the sustainability period deviates by more than 25% from the level of use previously underlying the premium or if the R&D use is discontinued, a correction (premium surcharge or reduction) must be made.

Further amendments

Where products or materials are commercially exploited after completion of the R&D activities without prior own use, only those expenses are eligible that are exclusively attributable to the R&D activities and not also to commercialisation.

When requesting the expert opinion from the Austrian Research Promotion Agency (FFG), the number of research projects allocated to a research focus area must now also be specified.

MoF decree on proof of residence for withholding tax relief

International Tax Law On 19 December 2025, the MoF published a [decree on the use of certificates of residence for withholding tax relief in Austria](#) (2025-1.046.929 (German version only)). This decree repeals and replaces the decree dated 29 February 2024 (2024-0.082.306).

ZS-QU forms may be signed by the income recipient using a qualified electronic signature in accordance with the EU eIDAS Regulation. In this case, the foreign tax authority must also sign using a qualified electronic signature. Only signatures from states included in an EU-recognized trust list are accepted (currently only EU and EEA Member States). A printout of an electronically signed form is not sufficient.

If the foreign tax authority does not confirm residence on the Austrian form and this is credibly demonstrated in the individual case, a foreign certificate of residence may exceptionally be attached to the fully completed and signed ZS-QU form.

Generally, the ZS-QU form signed by both the income recipient and the foreign tax authority must be submitted in original form. Where the foreign tax authority confirms residence only on an application previously scanned by it (ZS-QU form or foreign form), this is permissible provided that an additional fully completed and signed ZS-QU form is attached.

The decree also lists certain states for which it is considered sufficient to attach certificates of residence issued by the foreign authority to the Austrian forms (United States, Mexico, Thailand, Türkiye, Chile, Spain, Portugal, Belgium and Greece). For these states, confirmation of residence directly on the Austrian forms may also be waived in the refund procedure.

MoF: list of countries with comprehensive administrative assistance

International Tax Law

In its [information dated 18 December 2025](#) (2025-1.044.717 (German version only)), the MoF published a list of all countries and territories with which comprehensive administrative assistance is in place as of 1 January 2026. Compared to the MoF [information dated 9 December 2024](#) (2024-0.853.922 (German version only)), Madagascar as well as Trinidad and Tobago have been newly added.

The MoF clarifies that the term "comprehensive" administrative assistance is to be understood as referring to the "full" exchange of information (Council Directive 2011/16/EU, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, information clauses in double taxation agreements, or tax information exchange agreements - TIEAs). The existence of comprehensive administrative assistance is, *inter alia*, a prerequisite for the tax exemption of participation income from portfolio shareholdings in third countries, for the inclusion of a foreign company in an Austrian tax group, as well as for the subsequent taxation of losses and eligibility for tax-deductible donations.

As of 1 January 2026, comprehensive administrative assistance exists with the following countries and territories:

Albania, Algeria, Andorra, Anguilla, Antigua and Barbuda, Argentina, Armenia, Aruba, Azerbaijan, Australia, Bahamas, Bahrain, Barbados, Belarus, Belgium,

MoF: list of countries with comprehensive administrative assistance

Belize, Benin, Bermuda, Bosnia and Herzegovina, Botswana, Brazil, British Virgin Islands, Brunei, Bulgaria, Burkina Faso, Cameroon, Canada, Cape Verde, Cayman Islands, Chile, China (People's Republic), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Eswatini, Faroe Islands, Finland, France, Georgia, Germany, Ghana, Gibraltar, Greece, Greenland, Grenada, Guatemala, Guernsey, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Israel, Italy, Jamaica, Japan, Jersey, Jordan, Kazakhstan, Kenya, Korea (Republic), Kosovo, Kuwait, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Macao, Madagascar, Malaysia, Maldives, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Montserrat, Morocco, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Niue, North Macedonia, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russia, Rwanda, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten, Slovak Republic, Slovenia, South Africa, Spain, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sweden, Switzerland, Taiwan (Chinese Taipei), Tajikistan, Thailand, Trinidad and Tobago, Tunisia, Türkiye, Turkmenistan, Turks and Caicos Islands, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Vanuatu, Venezuela, Vietnam.

Since March 2022, Austria has no longer exchanged information with Belarus and Russia.

MoF information on international assistance in tax recovery

International Tax Law

On 19 December 2025 (2025-1.045.496), the MoF published [information](#) (German version only) providing an overview of the legal framework for international assistance in tax recovery. In this context, recovery refers to a state procedure for the compulsory enforcement of legal claims related to taxes and duties when the debtor does not fulfil the obligation voluntarily.

The information provides an overview of the following areas of international assistance in tax recovery:

- assistance within the EU on the basis of the EU Assistance in Tax Recovery Act (EU-VAHG) for the implementation of the EU Recovery Directive;
- assistance based on double taxation agreements, including a classification according to the scope of the respective assistance;
- EU agreements in the area of value-added tax with the United Kingdom and Northern Ireland, Norway, and Switzerland.

The information also clarifies that the Mutual Assistance Convention ([Convention on Mutual Administrative Assistance](#); Federal Law Gazette III No. 193/2014 (German version only)) does not constitute a legal basis for international assistance in tax recovery due to the Austrian reservation.

VAT guidelines maintenance decree 2025

Value Added Tax Act

On 10 December 2025, the MoF published the [VAT Guidelines Maintenance Decree 2025](#) (Umsatzsteuerrichtlinien Wartungserlass 2025 (German version only); 2025-0.986.432). The following provides an overview of the most important amendments.

Reimbursement of training costs (para. 19a)

If an employer demands reimbursement of training costs from an employee due to the termination of the employment relationship, this does not constitute a taxable transaction. The payment is not considered remuneration for a service provided by the employer.

Crypto artworks / NFTs (para. 345, 759, 1354, 3252)

The transfer of a crypto artwork represented by a non-fungible token (NFT) is classified as a service. NFTs do not qualify as (VAT exempt) legal tender, no reduced VAT rate applies, and margin taxation is excluded.

Charging of electric vehicles (para. 348)

If electric vehicle charging is carried out under a contract with a third-party provider who is not the grid operator, the electricity supply is considered to be made first by the grid operator to the third-party provider and then by the third-party provider to the user - as long as the third-party provider acts in its own name but on behalf of the user within a commission contract. This reflects the CJEU ruling in case C-60/23.

Entrepreneur identification (para. 638y)

A person using a VAT identification number that was wrongly assigned to them is still considered an entrepreneurial recipient of a service.

Fixed establishment (para. 639o)

A permanent establishment cannot be inferred solely from the fact that the entity belongs to the same corporate group.

Self-supply - Tax base (para. 679)

The cost price includes not only direct production or manufacturing costs but also indirectly attributable expenses such as financing costs—regardless of whether these costs include input VAT.

VAT exemption for certain contraceptive and hygiene products (para. 731d-731f)

The products covered by the VAT exemption introduced by the Budget Accompanying Act 2025 for certain contraceptives and feminine hygiene products are defined in paras. 731d-731f.

Scope of VAT exemption for credit administration (para. 751)

Management fees or commissions for administering mortgages are VAT exempt as long as they are not collected for managing third-party loans. For syndicated loans, administration by the lead bank is VAT exempt if the lead bank is one of the syndicate banks. The VAT exemption applies regardless of whether the service is provided to the borrower, the other syndicate banks, or both.

VAT guidelines maintenance decree 2025

Educational services (para. 876)

Adult education institutions with valid (i.e., Ö-Cert) certification may apply the VAT exemption for educational services. Regional certifications (e.g., CERT NÖ) alone do not equate to Ö-Cert and are therefore insufficient.

VAT liability arising from invoicing (para. 1733, 1734)

VAT liability arising from invoicing applies only to the portion of VAT that exceeds the correctly owed amount. The liability for wrongly stated VAT amounts is waived if there is no risk to tax revenue—this is the case for services supplied to final consumers without the right to deduct input VAT. Entrepreneurs without the right to deduct input VAT (e.g., small businesses) are not considered final consumers. If the basis for correct taxation cannot be determined, it must be estimated.

Adjustment of the tax base (para. 2386, 2387b)

An adjustment of the tax base must occur in the assessment period in which the payment amount changes. A later correction is not permitted. If a taxable supply is reversed, both VAT and input VAT must be corrected. A reversal of supply is distinct from the return supply; the latter constitutes an economically independent transaction.

Input VAT refund procedure for VAT Groups (para. 2850)

In a domestic VAT group, each group member with a valid VAT ID number may file its own application for an input VAT refund via its FinanzOnline account.

ES Sales Lists (para. 4171)

Amounts in euros that are to be reported in the ES Sales Lists must not be rounded.

Updated list of favored aircraft operators 2026

Value Added Tax Act

On 17 December 2025, the MoF published the updated [list of favored aircraft operators](#) (German version only) as of 1 January 2026 (2025-1.035.238). The overview includes operators with a registered office in Austria who carry out predominantly cross-border transport or transport on routes located entirely abroad (Sec 9/2 para 1 Austrian VAT Act).

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