

International Tax Review

Current information on
international tax
developments provided by EY
Austria

Austria: COVID-19 Short-Time Work

Content

- 01 Austria: COVID-19 Short-Time Work
 - 03 Austria: Annual reporting obligation to the Beneficial Owner Register from 2020
 - 03 Global Developments
 - 04 OECD Developments
 - 04 Country Updates
-

As response to economic challenges triggered by COVID-19, COVID-19 short-time work was introduced in Austria (Bundesrichtlinie Kurzarbeit, 27 March 2020). We would like to point out that the below might be subject to change in the future.

General information on COVID-19 short-time work

Short-time work is the temporary, non-seasonal reduction of working time hours and remuneration due to economic difficulties in order to reduce personnel costs. The new COVID-19 short-time work enables to reduce working hours to as little as 10% and still maintain an upright employment relationship. Earliest start of short-time work is 1 March 2020.

Employers can apply for short-time work for a maximum of three months. If necessary, a further extension of three months is possible after discussions between the social partners. After that, the regulation will cease to apply.

Short-time work must be agreed between the company and the employee by individual agreement. If a works council exists, this is done by means of a company agreement.

The agreement including an economic justification must be submitted to the social partners for signature. The social partners will sign the agreement within 48 hours as of the submission of the agreement.

An application for short-time work assistance (including the agreement) must be submitted to the Public Employment Service Austria ("AMS").

Austria: COVID-19 Short-Time Work

Working time

The working time must be at least 10% on average during the entire short-time work period. It can also be reduced temporarily to 0%.

A subsequent change (further reduction) to the agreed reduced working time is possible in agreement with the works council or, if no works council exists, with the employee. The change must be reported to the social partners at least 5 working days in advance.

Remuneration

The employer has to bear personnel costs of actual working time. During short-time work, the employees receive a reduced remuneration depending on the gross remuneration before short-time work. In total the employee receives at least the following (net compensation rate) from the employer:

- ▶ 80% of the previous net remuneration if the gross remuneration before short-time work is above EUR 2,685 and up to EUR 5,370;
- ▶ 85% of the previous net remuneration if the gross remuneration before short-time work is above EUR 1,700 and up to EUR 2,685;
- ▶ 90% of the previous net remuneration if the gross remuneration before short-time work is up to EUR 1,700; and
- ▶ 100% for apprentices.

The working time performed is to be remunerated by the employer on a pro rata basis according to the extent of the work actually performed by each employee during short-time work based on the net compensation. In addition, the employee receives a short-time work support (Kurzarbeitsunterstützung) for the lost working time, also to be paid by the employer, so that the employee in total receives the net compensation rate.

Short-time work allowance (Kurzarbeitsbeihilfe)

The lost working time (i.e. the reduced hours) is compensated by the AMS by means of a short-time work allowance in accordance with the fixed flat rates issued by the AMS. It is to be considered, that for income shares above EUR 5,370 no allowance is paid by the AMS. The flat rates include the pro rata special payments to the extent of 1/6, the additional costs regarding social security contributions (to be paid on the basis of remuneration as before short-time work) and other wage-related employer's contributions.

Old vacation entitlements and time credits

Old vacation entitlements should be used in full before or during short-time work. The use of old vacation and time credit is not a mandatory prerequisite for short-time work allowance. However, the employer must prove that he has made a serious effort to ensure that the employees use up the old vacation entitlements and time credits.

If the short-time work is extended beyond this, at least three more weeks of current vacation entitlement should be used. During the time in which vacation and time credit is used, the employer does not receive a short-time allowance.

Retention obligation

The employer is obliged to maintain the same number of employees in the entity, the business operation or parts thereof (depending on the scope in the agreement) as it had at the start date of the short-time work (so-called retention obligation). This means that in general during short-time work notice of terminations may not

Austria: COVID-19 Short-Time Work

be given. Should a reduction or elimination of the retention period be necessary due to special circumstances, this must be negotiated separately. It is however still possible to terminate employment relationships due to personal reasons. In such a case, the number of employees must be replenished accordingly.

Regardless of the duration of short-time work, a retention obligation of usually one month after the end of short-time work applies. This however only applies to employees affected by the short-time work. Employment relationships that have already been terminated may still be terminated properly.

Payroll

For employees who are covered by short-time work, a payroll list must be submitted by the 28th of the following month. After the partial payroll has been submitted and checked, the short-time work allowance is paid retrospectively for each calendar month.

Austria: Annual reporting obligation to the Beneficial Owner Register from 2020

Beneficial Owners Register Act

On 17 February 2020, the Austrian Federal Ministry of Finance published information on changes in the beneficial owner register in line with the requirements of the fifth EU Anti-Money Laundering Directive (2018/843; see our International Tax Review No. 11/2019 from 24 October 2019).

Since 10 January 2020, legal entities that are not exempt from the reporting obligation have been obliged to report any changes identified during the annual review of data in the register or confirm data with a separate report within four weeks from the due date of the annual review, to ensure that the data in the register is up to date. The review of beneficial owners also had to be carried out and adequately documented in 2019. Companies that fail to comply with the annual reporting obligation will be included in the default procedure from February 2021 and will receive reminders with a threat of penalty.

The beneficial owner register became a public register effective 10 January 2020. Against payment of a fee of EUR 3, anybody can ask for a public excerpt that includes information on the legal entity and personal data of beneficial owners (first name, family name, date of birth, nationality including country of residence; however, not the residential address).

More detailed information published by the Austrian Federal Ministry of Finance on the changes in the register as of 2020 can be found under the following link: <https://www.bmf.gv.at/services/wiereg/kontakt-wiereg.html>

Global Developments

Global Developments

- ▶ Global Trade: WCO, Canada and US updates on COVID-19 actions
[▶ Read more](#)

Country Updates

OECD Developments

- OECD Developments*
- ▶ OECD releases second annual peer review report on BEPS Action 6 relating to prevention of treaty abuse [▶Read more](#)
-

Australia

- Country Updates*
- ▶ Australia enacts economic stimulus and support measures - Action required by business [▶Read more](#)

Brazil

- ▶ Brazil's Superior Court of Justice extends tax benefit to sales of goods destined to the Manaus Free Trade Zone [▶Read more](#)

Canada

- ▶ Canada announces deferral of customs duties and import GST payments [▶Read more](#)
- ▶ Canada Revenue Agency announces additional filing deadline extensions [▶Read more](#)
- ▶ Canada introduces Federal Wage Subsidy Program [▶Read more](#)
- ▶ Canada: Ontario announces action plan [▶Read more](#)
- ▶ Canada: British Columbia announces relief plan [▶Read more](#)
- ▶ Canada announces updates to Emergency Response Benefit and Work-Sharing Program [▶Read more](#)

Colombia

- ▶ Colombia issues COVID-19 tax measures [▶Read more](#)

Costa Rica

- ▶ Costa Rica's Ministry of Public Health publishes resolution on temporary importation of certain products without registration [▶Read more](#)
- ▶ Costa Rican Government enacts law to mitigate tax and economic impact of COVID-19 [▶Read more](#)

Denmark

- ▶ Denmark introduces legislation in response to COVID-19 [▶Read more](#)

Ghana

- ▶ Ghana announces plans to provide relief to taxpayers in response to COVID-19 [▶Read more](#)

Country Updates

Guatemala

- ▶ Guatemala enacts Emergency Law to Protect Guatemalans from the Effects Caused by the COVID-19 Pandemic [▶ Read more](#)
- ▶ Guatemala issues additional measures to stem the spread of COVID-19 [▶ Read more](#)

India

- ▶ India's Finance Act, 2020 introduces amendments to transfer pricing provisions [▶ Read more](#)

Ireland

- ▶ Ireland issues guidance to employers on reporting, claims and subsidies during COVID-19 [▶ Read more](#)
- ▶ Ireland relaxes tax residence rules in relation to COVID-19 [▶ Read more](#)
- ▶ Ireland issues guidance on working from home and PAYE [▶ Read more](#)
- ▶ Ireland announces Temporary Wage Subsidy Scheme [▶ Read more](#)

Japan

- ▶ Japan enacts 2020 tax reform bill [▶ Read more](#)

Kenya

- ▶ Kenyan Government introduces tax measures in response to COVID-19 [▶ Read more](#)

Luxembourg

- ▶ Luxembourg limits deduction of certain payments made to countries on the EU list of non-cooperative jurisdictions [▶ Read more](#)
- ▶ Luxembourg announces economic stabilization and stimulus package in response to COVID-19 [▶ Read more](#)
- ▶ Luxembourg announces new provisions for shareholders and board meetings in response to COVID-19 [▶ Read more](#)
- ▶ Luxembourg: Data protection and impact of COVID-19 [▶ Read more](#)

Namibia

- ▶ Namibia implements measures to mitigate impact of COVID-19 on tax administration [▶ Read more](#)

Country Updates

The Netherlands

- ▶ Dutch Government updates tax and legislative measures in response to COVID-19 [▶Read more](#)

Norway

- ▶ Norway takes additional measures in connection with COVID-19 [▶Read more](#)

Panama

- ▶ Panama's National Customs Authority establishes temporary procedure for importation of certain goods for humanitarian aid due to COVID-19 [▶Read more](#)
- ▶ Panama Pacifico Agency suspends administrative proceedings due to national state of emergency declaration in Panama [▶Read more](#)
- ▶ Panama's Tax Authority extends suspension of administrative appeals proceedings [▶Read more](#)
- ▶ Panama's Government issues shelter in place order to control spread of COVID-19 [▶Read more](#)
- ▶ Panama publishes law on beneficial owner register for legal entities [▶Read more](#)
- ▶ Panama's Ministry of Health temporarily suspends construction-related activities to mitigate spread of COVID-19 [▶Read more](#)
- ▶ Panama's Government temporarily closes certain establishments and imposes additional sanitary measures to reduce spread of COVID-19 [▶Read more](#)
- ▶ Panama's Tax Authority suspends administrative proceedings due to COVID-19 [▶Read more](#)
- ▶ Panama issues decree to allow companies to request the temporary suspension of employment contracts due to COVID-19 [▶Read more](#)
- ▶ Panamanian Government declares "State of National Emergency" due to spread of COVID-19 [▶Read more](#)
- ▶ Panamanian Government establishes additional sanitary measures to mitigate spread of COVID-19 [▶Read more](#)
- ▶ Panama establishes immigration control measures to mitigate spread of COVID-19 [▶Read more](#)

Peru

- ▶ Peruvian Tax Authority establishes procedure for reporting certain information required for claiming the indirect foreign tax credit [▶Read more](#)

Poland

- ▶ Poland's tax legislation to mitigate economic impact of COVID-19 enters into force [▶Read more](#)
- ▶ Poland announces package to mitigate economic impact of COVID-19 [▶Read more](#)

Country Updates

Puerto Rico

- ▶ Puerto Rico's Treasury Department announces additional extensions for various returns and payments and provides special cash flow tax relief measures because of COVID-19 [▶ Read more](#)
- ▶ Puerto Rico Oversight Board wants the Commonwealth to become manufacturing center of US products [▶ Read more](#)

Russia

- ▶ Russian President announces significant changes to taxation of dividends and interest [▶ Read more](#)

Turkey

- ▶ Turkey amends several laws due to COVID-19 [▶ Read more](#)
- ▶ Turkey sets out tax practices for taxpayers under force majeure [▶ Read more](#)

United Arab Emirates

- ▶ Dubai Customs announces changes in proof of origin requirements [▶ Read more](#)

United States

- ▶ Report on recent US international tax developments - 27 March 2020 [▶ Read more](#)
- ▶ US CARES Act has corporate implications, including NOL deductions, Section 163(j) interest expense limitation and AMT acceleration [▶ Read more](#)
- ▶ US issues additional Section 301 exclusions, China continues to provide retaliatory tariff relief, and WTO Appellate Body Alternative is reached [▶ Read more](#)
- ▶ US CARES Act has international tax implications [▶ Read more](#)

Uruguay

- ▶ Uruguay extends period free trade zone workers may work remotely in light of COVID-19 [▶ Read more](#)

Uzbekistan

- ▶ Uzbekistan introduces tax measures to support the economy and business in response to COVID-19 [▶ Read more](#)

Country Updates

Zambia

- ▶ Zambia introduces fiscal measures to mitigate impact of COVID-19
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