

International Tax Review

Current information on
international tax
developments provided by EY
Austria

Austria, COVID-19: Revenue Compensation in Affected Industries during November Lockdown

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Based on the COVID-19 Protective Measures Directive 2020 of 1 November 2020 (Austrian Federal Gazette II No. 463/2020), the hospitality and tourist accommodation industries are forced to close down in Austria from 3 to 30 November 2020. Based on the COVID-19 Emergency Measures Directive (COVID-19 Notmaßnahmenverordnung of 17 November 2020, Austrian Federal Law Gazette II No. 479/2020), that close down was extended to 6 December 2020. To compensate businesses affected, the COVID-19 Lockdown Revenue Compensation Directive was published in the Austrian Federal Gazette on 6 November 2020 (Austrian Federal Gazette II No. 467/2020) and entered into force on 7 November 2020.

On 14 November 2020, the Austrian government announced to further tighten the lockdown and to close down the whole retail and personal services sector based on the COVID-19 Emergency Measures Directive. In that context, the government announced to expand revenue compensation also to those sectors. A legal basis to expand revenue compensation to those sectors was not yet published.

Businesses in the hospitality and accommodation industries officially closed or restricted during the November 2020 lockdown will be entitled to a non-recoverable revenue compensation (Umsatzersatz) of up to 80% of the revenues upon application for the period of lockdown or restriction.

The revenue compensation will be calculated automatically based on the 2019 tax data. The amount of the revenue compensation is determined by the November 2019 revenue (comparable prior-year revenue), which may be reduced by revenue attributable to sectors not directly affected by the

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restrictions of the COVID-19 Protective Measures Directive. 80% of this amount represents the lockdown revenue to be replaced. If the basis of calculation is found to be incorrect after the payout, the applicant can ask for correction by means of a written confirmation from a tax advisor, public accountant or accountant.

The minimum amount to be granted is EUR 2,300.00. The maximum amount is EUR 800,000.00, but certain corona aids have to be offset. Liabilities of COFAG, aws or ÖHT of less than 100% and the fixed cost subsidy 1 do not have to be offset. Short-time work allowances are not to be deducted. Similarly, no new revenue (switching to delivery at restaurants, business travel revenues for hotels) has to be deducted. The first revenue compensation payments were announced to be effected still in November 2020. In principle, the compensation of revenue is not repayable, provided that no application or due diligence obligations are breached by the applicant.

Applications must be submitted to COFAG. COFAG is the financing agency of the Republic Austria for COVID-19 subsidies and aids. The technical interface for submitting applications is FinanzOnline. The applicant may be represented by an authorized tax adviser, public accountant or accountant. Applications have been possible since 6 November 2020. The application must be submitted by 15 December 2020 at the latest. Disbursements were announced to be made within 14 days after application.

Among others, the following prerequisites must be met cumulatively:

- ▶ Registered office or permanent establishment and operational activity in Austria;
- ▶ Directly affected by certain restrictions of the COVID-19 Protective Measures Directive;
- ▶ Business activity in a directly affected sector (classification based on OENACE-2018);
- ▶ No termination of employees from 3 to 30 November 2020;
- ▶ No abuse of law within the meaning of Section 22 Austrian Federal Fiscal Code within the last three years of assessment, which has led to a change in the tax bases of at least EUR 100,000.00 per tax year;
- ▶ Entitlement to revenue compensation may be limited in case Section 12/1/10 Austrian Corporate Income Tax Act (no tax deductibility of royalty or interest payments to low taxed affiliated companies) or Section 10a Austrian Corporate Income Tax Act (CFC taxation, switch from exemption to credit method) applied in last five years assessed;
- ▶ No registered office or permanent establishment in a country listed on the EU list of non-cooperative countries and territories for tax purposes and generating predominantly passive income (Section 10a Austrian Corporate Income Tax Act) in that country in the first tax year after 31 December 2018;
- ▶ No fiscal criminal penalty or association fine for intent on the applicant and his managing bodies in the exercise of the corporate functions within the last five years;
- ▶ No pending insolvency proceedings;

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In addition, supervised entities of the financial sector, non-entrepreneurial associations and newly established companies without revenue generated before 1 November 2020 are excluded from the lockdown revenue compensation.

According to first information from the Austrian Ministry of Finance, the revenue compensation for the retail sector will be applied considering the perishability and seasonality of the goods (loss of value in the lockdown phase), the sales/revenue ratio and the probability of catch-up purchases. According to these criteria, the businesses shall be divided into three groups, to be remunerated at 20%, 40% or 60%. The personal services sector is said to receive a revenue compensation of 80%. The basis for the revenue compensation will be the revenue of November 2019.

For more information, a list of FAQs and the list of affected sectors, please see: <https://www.umsatzersatz.at/>

OECD Developments

OECD Developments

- ▶ PE Watch: Latest developments and trends | November 2020 [▶ Read more](#)
- ▶ OECD releases report on taxing virtual currencies [▶ Read more](#)
- ▶ OECD releases new methodology for peer reviews of BEPS Action 13 on Country-by-Country Reporting [▶ Read more](#)
- ▶ OECD releases third batch of Stage 2 peer review reports on dispute resolution [▶ Read more](#)
- ▶ The Latest on BEPS and Beyond | October 2020 edition [▶ Read more](#)
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- ▶ OECD releases BEPS 2.0 Pillar Two Blueprint and invites public comments [▶ Read more](#)

EU Developments

EU Developments

- ▶ EU imposes countermeasures on US origin goods [▶ Read more](#)
- ▶ EU responds to WTO authorization to impose countermeasures on US products [▶ Read more](#)

Argentina

Country Updates

- ▶ Argentina amends promotional tax system for knowledge-based economy [▶ Read more](#)
- ▶ Argentina implements mandatory disclosure rules [▶ Read more](#)

Country Updates

Australia

- ▶ Australian government introduces new Payment Times Reporting Scheme [▶ Read more](#)

Brazil

- ▶ Brazilian Supreme Court holds software sales will not be subject to state VAT [▶ Read more](#)

Canada

- ▶ Canada: Time to prepare for Quebec's incentive deduction for commercialization of innovations [▶ Read more](#)
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- ▶ Canada Revenue Agency provides update on CEWS and employee benefits [▶ Read more](#)

Chile

- ▶ Chile's IRS establishes new transfer pricing documentation requirements [▶ Read more](#)

Cyprus

- ▶ Cyprus: Anticipated tax measures to be implemented including adoption of withholding taxes on payments made to EU non-cooperative jurisdictions [▶ Read more](#)

Czech Republic

- ▶ Czech Government proceeds with legislation on Digital Services Tax [▶ Read more](#)

Egypt

- ▶ Egypt introduces unified tax procedures law [▶ Read more](#)

France

- ▶ France proposes new e-invoicing and e-reporting obligations from 2023 [▶ Read more](#)
- ▶ French court rules taxes levied on capital gains on sale of French shares by non-EU companies is contrary to free movement of capital [▶ Read more](#)

Country Updates

Germany

- ▶ German Ministry of Finance publishes guidance on German taxation of extraterritorial intellectual property [▶Read more](#)

Ghana

- ▶ Ghana publishes Transfer Pricing Regulations 2020 [▶Read more](#)

India

- ▶ India releases implementation rules for Equalization Levy on e-commerce supply and services [▶Read more](#)
- ▶ Indian Court rules on interaction between tax treaty provisions and Indian dividend distribution tax [▶Read more](#)

Ireland

- ▶ Ireland publishes Finance Bill 2020: A review of international tax provisions [▶Read more](#)
- ▶ Ireland issues Budget 2021 [▶Read more](#)

Italy

- ▶ Italy's Tax Authority rules reinsurance fees for Claims Handling Services are subject to VAT [▶Read more](#)

Japan

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- ▶ Japan: post COVID-19 tax audit trends [▶Read more](#)

Kenya

- ▶ Kenya's Tax Appeals Tribunal rules VAT is applicable on sale of commercial property, loan-related fees are not subject to excise duty [▶Read more](#)
- ▶ Kenya gazettes VAT regulations on electronic tax invoices [▶Read more](#)
- ▶ Kenya gazettes VAT regulations on digital marketplace supply [▶Read more](#)

Luxembourg

- ▶ Luxembourg Tax Authorities publish XML schema and user guide on submitting MDR reports [▶Read more](#)

Country Updates

Mexico

- ▶ Mexico's initial reporting due date for MDR obligations is fast approaching [▶ Read more](#)

Netherlands

- ▶ Poland and the Netherlands sign protocol to revise tax treaty [▶ Read more](#)

Peru

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Philippines

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Portugal

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Russian Federation

- ▶ Russian Supreme Court addresses withholding tax on lease payments and classification for tax treaty purposes [▶ Read more](#)

South Africa

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Spain

- ▶ Spain releases 2021 State Budget Bill [▶ Read more](#)
- ▶ Spain sends anti-tax evasion Bill to Parliament for approval [▶ Read more](#)
- ▶ Spanish Supreme Court confirms case law on limits to dynamic interpretation of tax treaties [▶ Read more](#)

Country Updates

Thailand

- ▶ USTR suspends GSP for certain Thai origin goods, Commerce issues preliminary determination on Vietnam CVD case [▶Read more](#)

United Kingdom

- ▶ UK implements new e-commerce VAT rules effective 1 January 2021 [▶Read more](#)
- ▶ Japan and UK sign Comprehensive Economic Partnership Agreement [▶Read more](#)
- ▶ UK issues guidance on accounting for VAT on goods moving between Great Britain and Northern Ireland from 1 January 2021 [▶Read more](#)

United States

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- ▶ Report on recent US international tax developments - 30 October 2020 [▶Read more](#)
- ▶ Report on recent US international tax developments - 23 October 2020 [▶Read more](#)
- ▶ EU imposes countermeasures on US origin goods [▶Read more](#)
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- ▶ US: additional final regulations provide foreign tax credit guidance [▶Read more](#)

Uruguay

- ▶ Uruguayan tax authority extends estimated tax payment deadlines due to COVID-19 [▶Read more](#)

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