

Tax Short Cuts - English

Latest tax news for Austria
by EY

Government Bill on the Tax Amendment Act 2023 approved

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On 14 June 2023, the Council of Ministers approved the government bill on the Tax Amendment Act 2023 (AbgÄG 2023). For further details on the amendments please refer to the German version of our Tax Short Cuts No. 13/2023 of 27 June 2023.

The government bill on the AbgÄG 2023 can be accessed at the following link (German version only):
https://www.parlament.gv.at/dokument/XXVII/I/2086/fname_1569380.pdf

Further legislation remains to be seen.

Draft EU Directive on Withholding Tax relief for listed securities ("FASTER Directive")

*Income Tax Act
Federal Fiscal Code*

On 19 June 2023, the EU Commission published the draft of the so-called "FASTER Directive" (2023/0187) on faster and safer relief of excess withholding taxes for an EU-wide procedure for the deduction of withholding tax and the associated relief options on payments subject to withholding tax (dividends and interest) from listed securities. The member states shall be obliged to implement the Directive at national level by 31 December 2026. The rules are to be applicable as of 1 January 2027.

The aim of the Directive is to ensure a fast and efficient processing of applications for withholding tax relief (exemption or refund) and to prevent tax fraud and abuse.

The draft provides for the following:

- ▶ Introduction of a common digital EU tax residence certificate (so-called eTRC), which is to be issued within one working day after submission of the application. This should lead to a switch to an electronic procedure throughout the EU.
- ▶ The addition of two so-called "fast procedures": an exemption procedure ("relief at source") and a fast refund procedure ("quick refund system"). According to the draft, a refund within 50 days of payment of the withholding tax is to be guaranteed. The choice of which of the two procedures is to be applied (also possible as a combination) is to be left to the discretion of the member states.
- ▶ The introduction of a national register and a standardized reporting obligation: Certified financial intermediaries are to report to the competent tax administration by whom and to whom payments subject to withholding tax are made, so that the latter can trace the transaction. According to the draft, large financial intermediaries (e.g. banks) in the EU in particular will have to register in a national register of certified financial intermediaries. This register will also be open on a voluntary basis to financial intermediaries from non-EU countries and smaller EU financial intermediaries.
- ▶ The verification of eligibility of investors shall be carried out by the financial intermediaries.

The draft Directive explicitly only covers cases of listed and stock exchange-traded securities held through financial intermediaries. There would therefore be no immediate DTA relief for intra-group dividend payments (or royalties).

The draft Directive can be found at the following link:
https://taxation-customs.ec.europa.eu/system/files/2023-06/COM_2023_324_1_EN_ACT_part1_v3.pdf

Interest rate adjustments

Federal Fiscal Code

On 16 June 2023, the Federal Ministry of Finance published the decree on the adjustment of interest rate for deferral, late payment, suspension, appeal and VAT interest (2023-0.433.685), which replaces decree 2023-0.192.676 of 13 March 2023. Due to the further increase of the base rate by the ECB, the Austrian base rate has also risen from 2.88% to 3.38% per annum.

As of 21 June 2023, the following interest rates will apply:

- ▶ Deferral interest: 5.38% (previously 4.88%)
- ▶ Suspension interest: 5.38% (previously 4.88%)
- ▶ Late payment interest: 5.38% (previously 4.88%)
- ▶ Appeal interest: 5.38% (previously 4.88%)
- ▶ VAT interest: 5.38% (previously 4.88%)

The decree can be accessed at the following link (German version only):
<https://findok.bmf.gv.at/findok/resources/pdf/913ca729-1d55-4cb7-ad6f-56a88d6f050c/81992.1.1.pdf>

Government bill on the Beneficial Owners Register Act 2023 approved

Beneficial Owners Register Act

On 14 June 2023, the Council of Ministers approved the government bill on the Beneficial Owners Register Act 2023 (WiEReG Amendment Act 2023).

Within the framework of the amendment, the register is to be expanded to become a central platform for the automation-supported matching of sanction lists with the register of companies, the register of associations, the supplementary register and the register of beneficial owners. In addition, the cooperation of the registry authority with other authorities to prevent money laundering, terrorism financing and the circumvention of sanctions shall be intensified and an exchange of information beyond administrative assistance shall be provided for.

Other aspects of the amendment concern the transparency of trusteeship agreements - in future, also trusteeships within the chain of ownership and the fiduciary assumption of the founder's or beneficiary's functions in foundations (trusteeship foundations) are to be disclosed.

Furthermore, the introduction of an inspection with legitimate interest, in particular for members of the press and academia as well as civil society organisations, shall be implemented. Public inspection of the register was last prohibited by a ruling of the ECJ (see already our Tax Short Cuts No. 27/2022 of 13 December 2022). In addition to parties with a legitimate interest, public bodies that award public funds as grants should also be able to inspect the register.

The government bill on the WiEReG Amendment Act 2023 can be accessed at the following link (German version only):

https://www.ris.bka.gv.at/Dokumente/RegV/REGV_5CBBD288_5B3A_44DB_AA27_81B244707791/REGV_5CBBD288_5B3A_44DB_AA27_81B244707791.pdf

First reporting requirements for CO₂ border adjustment for imports as of 1 October 2023

EU Carbon Border Adjustment Mechanism (CBAM)

On 13 June 2023, the EU Commission published the draft implementing regulation on the rules for the implementation of the EU Carbon Border Adjustment Mechanism (CBAM). This contains details on the reporting obligations for EU importers during the transition period (from 1 October 2023 to 31 December 2025). A consultation on the implementing regulation will take place until late summer, afterwards a vote will take place in the CBAM Committee, which is composed of representatives of the EU member states.

The scope of CBAM includes goods such as cement, fertilisers, iron ores, iron and steel products, certain aluminium containers, such as tanks, drums, containers, but also other goods made of aluminium, as well as hydrogen and electrical energy. The CBAM product list has been expanded several times. Since downstream products and not only raw and semi-finished products are also covered by the CBAM regulations, the list of affected products is relevant for a wide range of companies and industries. Political discussions seem to favour a further extension of CBAM until 2030. This could include in particular polymers, various chemicals, petroleum products, paper and pulp.

As of 1 October this year, importers (customs declarants or their indirect representatives) for imports into the EU must report quarterly on the direct and indirect emissions generated in the production process of the imported goods. The quarterly CBAM report shall include, in addition to information on the quantities and total emissions of the imported goods, information on the CO₂ price paid for emissions in the country of production, if any. Imports from Switzerland, Liechtenstein, Norway and Iceland are exempt from these obligations.

EU companies as well as manufacturers and traders from third countries that have to take CBAM requirements into account should make preparations for the new reporting obligations without delay. The first report is to be submitted for Q4 2023 by 31 January 2024. This includes, in particular, measures to identify goods and imports subject to CBAM, closing possible data gaps with regard to the required reporting obligations, planning a corresponding organisational structure and process organisation to comply with the compliance obligations, but also considerations and possibilities to reduce the CBAM burden by optimising customs procedures and strategic procurement, production and location planning.

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