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Tax Short Cuts

Current tax information for Austria from EY

Government Bill on the Progression Compensation Act 2024 approved

Content

On 27 September 2023, the Council of Ministers approved the government bill on the Progression Compensation Act 2024 (Progressionsabgeltungs-gesetz 2024, PrAG 2024), which is intended to implement the inflation adjustment for the year 2024. The government bill was assigned to the parliamentary budget committee for further parliamentary consideration on 27 September 2023, and provides following key amendments to the Austrian Income Tax Act 1988:

Staggered adjustment of the first four tariff limits
The amounts already adjusted under the automatic inflation adjustment to the extent of two-thirds hence by 6.6% (2/3 of 9.9%) were announced in the Inflation Adjustment Regulation 2024 (Federal Law Gazette II No. 251/2023). For the volume of the cold progression not covered by the automatic inflation adjustment (remaining third), all amounts related to the calculation of deductible amounts, including the maximum social insurance refund, are to be increased by the full volume of inflation, i.e. 9.9%. Furthermore, the marginal amounts relevant for the application of the first four tariff limits are not only to be adjusted by 6.6%, but in a staggered manner as follows

- the first tariff limit by a total of 9.6% to EUR 12,816.00,
- the second tariff limit by a total of 8.8% to EUR 20,818.00,
- the third tariff limit by a total of 7.6% to EUR 34,513.00,
- the fourth tariff limit by a total of 7.3% to EUR 66,612.00.

Building a better working world

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Increase of the profit allowance (basic allowance)
The basic allowance is to be increased from EUR 30,000.00 to EUR 33,000.00.

Extension of tax benefits for overtime work
The maximum possible tax-free surcharge for the first ten hours of overtime per month - amounting to a maximum of 50% of the basic remuneration - is to be increased from EUR 86.00 to EUR 120.00. For the calendar years 2024 and 2025 the possibility of paying up to EUR 200.00 tax-free for the first 18 hours of overtime per month will also be granted.

Extension of tax benefits for several surcharges
The tax-free amounts for dirty-work, hardship and hazard surcharges as well as surcharges for Sunday, public holiday and night work and overtime surcharges related to such work are to be increased from EUR 360.00 to EUR 400.00.

Extension of the home office regulation
The tax regulations concerning home office activities introduced for a limited period in 2021 until 31 December 2023 are to be extended for an unlimited period. When claiming costs for the acquisition of ergonomic furniture, the cap of EUR 300.00/year is to be retained, but amounts exceeding this - in contrast to the previous regulation - will be taken into account for an unlimited period of time.

Increase in the additional allowance for children
The additional allowance for children is to be increased from EUR 550.00 to EUR 700.00 per child per year. Furthermore, the receipt of maternity allowance shall no longer be detrimental to the granting of the additional allowance for children (already as of the assessment year 2023).

Increase in childcare subsidy and expansion of company kindergartens.
The maximum amount for a tax-free subsidy from the employer for childcare is to be raised from EUR 1,000.00 to EUR 2,000.00 per calendar year.
In addition, it is to be made possible to spend the costs of childcare oneself and to have them reimbursed at least partially by the employer (upon presentation of the invoice, which is to be taken to the payroll account).
Furthermore, as prerequisite for the tax exemption, the age limit for children is to be increased from 10 to 14 years.

Free or reduced-price attendance at elementary educational facilities (in particular company kindergartens) should also be tax-exempt if these facilities are also attended by children whose parents are not employed by the company.

The new regulations are scheduled to come into force in the calendar year 2024.

Further legislation remains to be seen.

The government bill on the PrAG 2024 can be found at the following link (German version only):
https://www.parlament.gv.at/dokument/XXVII/I/2217/fname_1585908.pdf

MoF: Update of the information letter on the application of the EU Reporting Obligation Act (EU-MPfG)

EU Reporting Obligation Act

On 12 September 2023, the Federal Ministry of Finance (MoF) published an update of the information letter on the application of the EU Reporting Obligation Act (EU-Meldepflichtgesetz, EU-MPfG) (2023-0.619.815). The information letter published on 21 October 2020, which contained clarifications on definitions of terms and the individual "hallmarks" of reportable arrangements as well as regulations on reporting deadlines, is repealed with the update. Due to some interpretation issues discussed at EU level, the Austrian MoF now published an update of the information letter.

In addition to clarifications regarding auxiliary intermediary status and the calculation of the tax benefit, the updated information letter includes further additions to the following selected hallmarks:

- Transfer pricing arrangements using unilateral safe harbor rules (Sec. 5 no. 7 EU-MPfG; Hallmark E.1);
- Transfer of hard-to-value intangibles (Sec. 5 no. 8 EU-MPfG; Hallmark E.2);
- Transfer pricing arrangements with a drop in EBIT (Sec. 5 no. 9 EU-MPfG; Hallmark E.3);
- General comments on the main benefit test;
- Conversion of income (Sec. 6 no. 5 EU-MPfG; Hallmark B.2);
- Round-Tripping (Sec. 6 no. 6 EU-MPfG; Hallmark B.3);
- Deductible cross-border payments between affiliated companies (Sec. 6 no. 7 EU-MPfG; Hallmark C.1).

For example, it is clarified how the decrease in EBIT pursuant to Sec. 5 no. 9 EU-MPfG is calculated on the basis of forecast calculations or that there is a reporting obligation pursuant to Sec. 5 no. 8 EU-MPfG also if the intangible, that is hard to value, is transferred as part of a larger transaction and only accounts for a small share of the overall transaction.

Based on the ECJ ruling in case C-694/20 of 8 December 2022, amendments regarding the exemption from the notification obligation (Sec. 11 EU-MPfG) have also been included in the information letter. Thus, it is stated that the obligation to inform other involved intermediaries about the existence of a structuring and their own duty of confidentiality is inapplicable.

Finally, the current information letter refers to the content of the notification and thus to the indication of the value of the arrangement. For example, the value of the arrangement is to be calculated without the mutual (partial) cancellation or without the mutual (partial) compensation.

DTC Austria – China: partial revision

Double Taxation Convention Austria - China

On 14 September 2023, Austria and the People's Republic of China signed a protocol amending the double taxation convention (DTC) from 1991. The main content is the implementation of BEPS measures that cannot be implemented by means of MLI, as well as the current OECD standard on tax transparency and administrative assistance.

Art. 1 (Covered Persons)
The new Art. 1 para 2 shall ensure that the income of transparent entities is treated in accordance with the principles of the OECD Partnership Report 1999.

Art. 4 (Resident)
By the new Art. 4 para 3 an abuse of the agreement by dual-resident legal entities should be prevented. There will be mandatory mutual agreement procedure for the final determination of residency.

Art. 5 (Permanent Establishment)
The period for establishing a permanent establishment for construction and assembly is to be extended from the current six months to twelve months.

Art. 10 (Dividends)
The withholding tax rate for intercompany dividends from a participation of at least 25% will be reduced from 7% to 5%. In addition, this reduced rate of 5% will be extended to qualified public entities, irrespective of the shareholding ratio. The withholding tax rate of 10% for portfolio dividends remains unchanged.

Art. 11 (Interest)
The exemption from withholding tax on interest is extended to interest payments to qualified public-law entities or legal entities that are wholly owned by a contracting state or are mandated by the government of a contracting state.

Art. 24 (Methods for the Elminiation of Double Taxation)
By deleting Art. 24 para 2 sub-para c, the previous matching-credit-provision is repealed. This provision stipulates that the Chinese tax levied on dividends, interest and royalties is to be credited in any case in the amount of 10% of the gross amount of the dividends and interest or in the amount of 20% of the gross amount of the royalties, irrespective of the actual amount of the Chinese tax in Austria.

Art. 27 (Exchange of Information)
Art. 27 is adapted to the OECD standard on tax transparency and administrative assistance. In accordance with the OECD model tax convention, the contracting states undertake to exchange information comprehensively. This also includes bank information.

The completion of the domestic procedures and the entry into force remains to be seen.

DTC Austria – China: partial revision

The protocol is available at the following link:
https://www.parlament.gv.at/dokument/XXVII/I/2196/imfname_1583733.pdf

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