Shaping change with tax

How taxes can support sustainability

Introduction

As well as being an omnipresent issue in our daily lives, sustainability is becoming increasingly important in almost all areas of economic activity, including in companies' tax departments. The points of intersection between ESG (environmental, social, governance) and taxes are numerous and go far beyond environmental taxes. Sustainable action and forward planning can often reduce ESG-related (tax) burdens before they even arise. As an employee in tax, you call the shots – so act quickly and take advantage of the opportunities, rather than reacting to the arising costs (e.g. CO2 taxes) afterwards. This brochure shows you how and where you can take action. We discuss the following tax issues in an ESG context:

Environmental taxes

With the European Green Deal and the Fit for 55 package, the EU has initiated various environmental taxes as a first step to achieving climate neutrality in the Union by 2050.

Carbon Border Adjustment Mechanism (CBAM)

The intention behind the CBAM (Carbon Border Adjustment Mechanism) is to create a level playing field between product manufacturers inside and outside the EU to counter carbon leakage, i.e. the relocation to countries with lower decarbonisation ambitions. While actual certificate trading is planned only from 2026 onwards, a reporting obligation for importers of energy-intensive goods came into force on 1 October 2023.

Circular economy

The goal of a circular economy is to preserve resources and reuse raw materials. If done successfully, valuable waste is created. However, there are some VAT considerations to bear in mind.

Tax reporting

Back in 2020, the Global Reporting Initiative (GRI) published the GRI 207 standard, which anchored tax matters in sustainability reporting. The EU is aiming to introduce a similar obligation and is significantly expanding the scope of companies affected.

Sustainability strategy and company organisation

A successful sustainability strategy often requires adjustments, and these will likely be different in each company. This includes adjustments in supply chains, decisions on actions such as carve-outs, acquisitions or relocating company headquarters. For all these measures, tax implications need generally to be taken into account.

BEPS 2.0 Pillar 2: global minimum tax

The EU has agreed on a minimum tax. The German Minimum Tax Act has been in effect since 1 January 2024. This is intended to bring the taxation of profits in countries with low tax revenues more in line with the „pay your fair share" principle; the resulting tax receipts are intended to provide financing for sustainable projects especially in these countries.

Work from anywhere

Sustainability also means offering a secure workplace under fair conditions to employees with widely differing requirements. This calls for new working models, including greater work location flexibility, which give rise to issues under employment and tax law. These include compliance matters such as payroll tax or permanent establishment risks.

Environmental taxes

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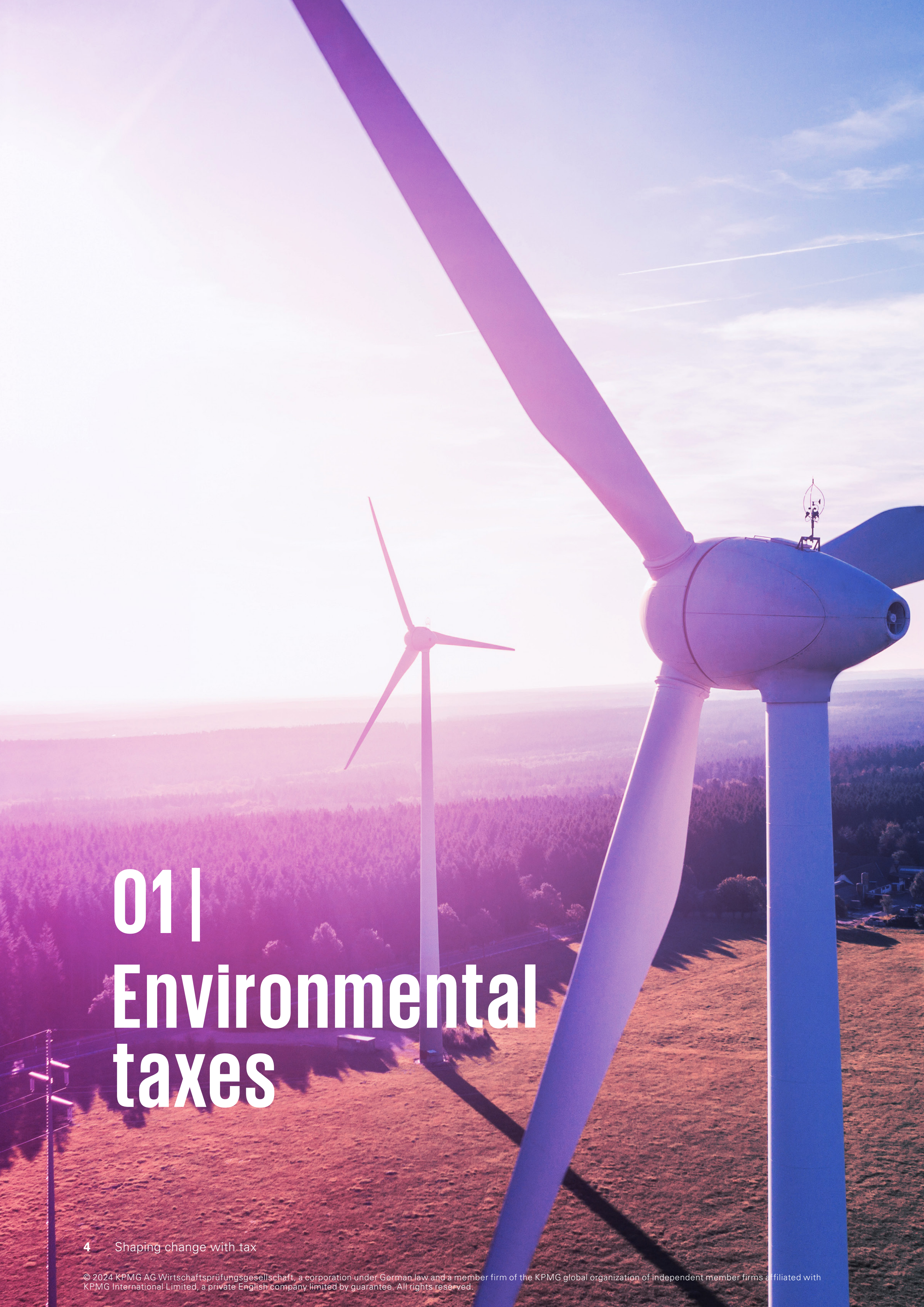

01 | Environmental taxes

Acting sustainably, saving taxes

Marc Goldberg, Susanne Hüttemann,
Mario Urso

In many cases, taxes can act as an incentive. Energy and environmental taxes are a way of sanctioning environmentally harmful behaviour and promoting the transition to a sustainable economy. Current environmental tax measures at EU and national level include:

- introducing a plastic tax to promote the circular economy: one initial step in Germany is the extra charge for disposable plastic. It has been in effect since 1 January 2024, while first reporting is to be submitted for 2024 by 15 May 2025. In other countries, including Spain, the plastic tax has already been introduced;

- reforming the Energy Taxation Directive to promote a low-carbon, energy-efficient economy;

- introducing the Carbon Border Adjustment Mechanism (CBAM); details on page 7; and

- the German Fuel Emissions Trading Act (BEHG), which forms the basis for national trading in certificates for fossil fuel emissions (CO2) and which especially (but not exclusively) affects energy suppliers and the transport sector.

The legislative processes for sustainability are not fully complete, neither at EU level nor in the Member States. However, it is already clear that tax departments will be required to fulfil various verification and documentation requirements – and, of course, that the new legislation will result in tax/duty burdens. One key challenge will be gathering the relevant data from various systems and departments, such as the plastic products not designed for reuse or the CO2 emissions in the supply chain. This data is required for a company to estimate the financial burdens and thus the expected costs, and on this basis to consider how to align itself more sustainably.

It can already be seen that determining tax-relevant data requires efficient processes, potentially including support from tool-based solutions. There is a trend to increasing data volume and increasing complexity of data collection.

The charges and cost allocations resulting from existing and future obligations and regulatory changes will lead to higher costs. Although this represents a challenge in terms of economic returns, it can also help to increase security of supply – as is intended with the introduction of the BEHG, for example. It is advisable to keep track of developments at all times so that you can respond at an early stage. At the same time, it is important to know and use any individual opportunities to reduce your tax burden.

Our solution – your benefit

The tax experts from KPMG AG Wirtschaftsprüfungsgesellschaft and the legal experts from our cooperation partner KPMG Law Rechtsanwaltsgesellschaft mbH use an integrated approach to support you in complying with your legal obligations. The aim is to improve the ESG footprint and to do business sustainably. An analysis is conducted of how developments in energy and environmental taxes, as well as charges and cost allocations, impact your company (risk and impact analysis for financial and non-financial outlays). On this basis, any necessary adjustments can be made and corresponding processes introduced.

We will also be happy to assist you in determining the individual potential for your company to reduce its burden.

02 | Carbon Border Adjustment Mechanism (CBAM)

Get securely through customs

Stephan Freismuth, Susanne Hüttemann, Mario Urso

One key component of the Fit for 55 package is the Carbon Border Adjustment Mechanism (CBAM). This carbon offset scheme is designed to ensure that carbon emissions of imports from non-EU countries are calculated and offset by carbon emission certificates.

Although actual certificate trading is not due to start until 1 January 2026, companies have been subject to a reporting obligation since 1 October 2023. Importers must calculate and document the emissions that arise during the production process of the imported goods. In a quarterly report, they have to detail the imported quantities of CBAM goods, the direct and indirect carbon emissions contained therein and the carbon taxes already paid in the country of production. This initially includes energy-intensive goods such as cement, electricity, fertiliser, aluminium as well as iron and steel, hydrogen and a number of upstream and downstream primary products. The EU plans to expand this to goods from all sectors by 2030.

Upon commencement of certificate trading in 2026, importers will be required to calculate their carbon emissions. In general actual values are to be reported but standard values may also be used in exceptional cases. The latter are currently being prepared by the EU Commission and will then be provided specifically according to product and country of origin. As part of an annual CBAM declaration, companies must indicate any imported CBAM goods and associated carbon emissions and also substantiate that they have acquired corresponding carbon certificates.

The challenges facing many companies aremanifold: what is usually lacking is suitable technological solutions to calculate and document carbon emissions, and even overviews of which products have been imported from which countries. Moreover, it is labour and time-intensive to collect data from suppliersand calculate carbon emissions. For that reason it is advisable to tackle the regulations at an early stage – even if you are not yet affected – so that you can estimate the potential consequences for your company as the scope of goods affected is expanded.

Our solution – your benefit

Our experts advise you individually – from individual questions to comprehensive assistance including technological solutions:

1. Specialist workshop as basis for an initial impact assessment and to coordinate next steps
2. Impact analysis using customs declarations, ideally applying the KPMG Trade Data Check, to systematically analyse your customs data
3. Definition of responsibilities in your company based on the result of the impact analysis
4. Support with calculating direct and indirect carbon emissions based on actual or standard values; if actual values are used there is extra support in having these values verified and audited by certified bodies
5. Support with registering as an authorised CBAM declarant
6. Support with acquiring CBAM certificates
7. Coordinating with suppliers to ensure electronic exchange of CBAM-relevant information
8. Setup of CBAM management process
9. Support with preparing and submitting CBAM declarations

03 | Circular economy

Increase recycling rate, reduce disposal rate

Gregor Dzieyk, Susanne Hüttemann

Reuse and recycle – activities that contribute significantly to the circular economy and to the circular use of materials. This means they have a positive effect on sustainability. The goal is to reuse materials or to recycle them as valuable secondary materials, thus reducing the disposal rate. The circular economy offers many advantages, both ecologically and economically.

As the following examples show, an assessment from the tax perspective is essential in many cases: if a company transfers valuable waste to another company, this happens either with or without additional payment. The receiving company attributes a value to the waste, which is already expressed by the fact that the company possibly collects the waste free of charge. The transferring company saves on disposal costs. This gives rise to a barter or a barter-like transaction, the value of which must be calculated and declared to the tax authorities.

Another example is reusable shipping boxes, which are increasingly being used for shipping goods. If such shipping boxes are leased, this may lead to an adjustment to trade tax. But from a VAT perspective, too, distributing and taking back these boxes are complex matters.

These examples alone show how important it is to implement processes that support you to identify relevant transactions and then correctly present them.

Our solution – your benefit

We support you in identifying the relevant cases and implementing corresponding compliance processes, while for barter-like transactions we help you to determine the applicable basis of assessment and – if required – to set up deposit processes.

04 | Tax reporting

Transparent reporting as an opportunity

Dr Markus Gsödl, Susanne Hüttemann

Following the introduction of GRI 207, taxes have become a fixed element of sustainability reporting for companies reporting in accordance with the GRI standards. As a result of the EU initiative, tax transparency worldwide is to be established mainly by public country-by-country reporting (public CbCR). For companies with consolidated revenue of more than EUR 750 million in two consecutive financial years, this means extensive reporting obligations, which in Germany apply for all financial years beginning after 21 June 2024. For financial years matching the calendar year, this means the reporting must first be disclosed for the financial year ending 31 December 2025.

Information on business activity and the number of employees will typically be on hand. The situation is different for income from transactions with related parties, accumulated earnings and other matters. This data will not be immediately available at the end of the reporting period. It cannot be obtained directly from the CbCR to be prepared for the tax authorities, neither can it be derived from transfer pricing documentation or financial accounting. Obtaining this global data is a challenge. If no ERP system with uniform charts of accounts is in place, this will require extensive coordination. This ties up staff and resources. In this light, it may be expedient to start collecting data now. It is also recommended to assess which figures would need to be published and how informative they are in relation to companies' sustainability efforts. This would leave another year to take necessary measures.

However, meaningful reporting also offers opportunities: increased transparency in reporting canpositively influence ESG ratings as a company's sustainability influences the decisions made by various stakeholders – from investors to customers.

Our solution – your benefit

We help you to achieve greater tax transparency. We can arrange a workshop with you to establish the status quo and define the objectives for your company. If you wish, we can show you various options for presenting your company's sustainable approach in your tax reporting. If required, we can also use innovative cloud-based solutions for data collection and analysis.

Our modular process takes account of the key requirements of GRI 207 and public CbCR:

1. Review of tax policy using the KPMG Tax Policy Checklist
2. Review of tax risks and governance
3. Tax benchmarking
4. Development and assessment of tax communication
5. KPMG tax impact reporting and calculation of your tax contribution and tax footprint

You can also order the modules separately based on your requirements.

05 | Sustainability strategy and company organisation

Boost sustainability, meet requirements, minimise risks

Gregor Dzieyk, Anne-Kathrin Gillig, Susanne Hüttemann, Lars Christian Mahler, Janine Müller, Mario Urso

As part of their sustainability efforts, many companies are focusing on things such as the transition to more sustainable production, insourcing of production stages and carbon offsetting. At the same time, there is the aim of reducing risks, for instance concerning supply security, political stability – especially at the company headquarters – or regarding compliance with legal obligations. These obligations include the German Supply Chain Act and the EU requirement to observe human rights due diligence obligations in the supply chain. Companies must use appropriate control mechanisms to ensure that environmental matters and human rights are not violated during production, procurement and (in some cases) also in sales. Appropriate measures can mitigate the risk of violations and increase the security of supply. It is important to note that the more countries are included and the more complex the group or supplier structure, the more costly it will be to comply with these obligations.

Measures such as insourcing or outsourcing often change the areas of responsibility of subsidiaries. This also requires a targeted analysis of transfer pricing as changes in the supply chain that often ensue must generally be reflected in the transfer pricing model. These changes frequently have further tax effects, for example impacting indirect taxes and customs duties. These should also be considered as it might then be necessary to make adjustments to the ERP system.

Changes in a company's structure, and also decoupling measures, generally have income tax implications, which will only be intensified by the introduction of the global minimum taxation (see p.15 for details). And other tax types, including indirect taxes and real estate transfer tax charges, should also be considered in implementing the sustainability strategy.

Our solution – your benefit

Our experts will support you in tax and legal* matters to implement your sustainability strategy:

1. Analysis of current company organisation, especially regarding risks at company HQ and in the supply chain
2. Identification of optimisation potential, also taking into account M&A activities, carve-outs and decoupling – especially with a view to economic and sustainability criteria
3. Presentation of legal* and tax implications of any change to the company's organisation, including an adjusted transfer pricing model and the effects on indirect taxes including a simulation of the potential financial consequences
4. Support during implementation

*Our experts from KPMG Law will advise you on the legal requirements, for instance on corporate structuring and/or the German Supply Chain Act.

06 | Global minimum tax

On the way to a new global tax order

Claus Jochimsen-von Gfug, Susanne Hüttemann

After the BEPS initiative (base erosion and profit shifting) of the OECD, there now comes the follow-up project BEPS 2.0: the global minimum tax has been in place since 1 January 2024 (Pillar 2). This means that companies with consolidated revenue of EUR 750 million or more are required to calculate an effective tax rate (ETR) for each country. If this is below 15 percent, a „top-up tax" must be paid. It should be noted that the ETR may be below 15 percent even if the tax rate in the respective country is above this threshold. Companies are required to demonstrate that the minimum tax has been achieved in each affected country.

The challenge lies in the legally defined basis of assessment – which deviates from the country-specific calculation – and by extension in the availability and collection of data. Much data that is relevant for the new legislation is not recorded in other documentation such as the country-by-country reporting or the financial statements. Consequently, new processes and extensive adjustments to disclosures from group accounting are needed so that this data can be efficiently collected. In this regard, all national entities of a company must be considered – this works only in close international cooperation between the tax and accounting functions.

Our solution – your benefit

We advise on a modular basis according to your needs: in individual steps through to full-scale support including tool-based advice

1. Introduction: specialist workshop as a basis for an initial impact assessment and to coordinate next steps
2. Working together to develop a strategy tailored specifically to the company, with the key features including:
    1. A review of relevance of Pillar 2 taking into account company specifics
    2. A digitalised group analysis using our KPMG Group Analyzer
    3. An analysis of the relevance and availability of data for the necessary calculations and development of measures to improve availability and granularity using the KPMG Data Source List
    4. Optional: calculation for pilot countries using KPMG BEPS 2.0 Calculation Engine
    5. Identification of necessary system and process adjustments
    6. Selection of suitable technology, including the KPMG Digital Gateway platform and suitable approaches to BEPS 2.0 Pillar 2 from all relevant third-party providers
    7. Embedding the processes in the tax compliance management system, including training employees, adaptation of technical instructions (accounting, tax and IT) and process descriptions
    8. Optional: additional support using KPMG's managed services approach (preparation and submission of tax declarations) and coverage of further items
    9. Prompt answers to your questions via our Pillar 2 Hotline

07 | Work from anywhere

Work from anywhere – managed properly

Susanne Hüttemann, Sabine Paul, Dr Tobias Preising

Work is becoming increasingly flexible. For instance, temporary remote working from abroad, often combined with leave (workation), has already arrived at many companies, with numerous advantages for employers and employees: a successful work-from-anywhere strategy positively impacts company culture by promoting equal opportunities and diversity, while also creating a competitive advantage by increasing employer attractiveness. In an increasingly challenging employment market, companies who allow their staff the greatest possibly autonomy will tend to find it easier to find, retain and motivate talent.

In light of skills shortage, work from abroad is developing increasingly towards „hire anywhere": new staff are recruited across borders and work long term or even permanently from abroad. In this way, the time and expense required for travel and permanent office space can also be reduced.

However, remote working has its pitfalls for companies and involves compliance requirements. From individual cases at short notice to the development of a future-oriented strategy, those responsible for a work-from-anywhere strategy have a lot to consider. Issues falling within the responsibility of the tax department can also play a greater role than many believe.

Cross-border flexibility in particular involves legal risks, employment law risks and tax compliance risks, especially regarding payroll and income tax, permanent establishment, residence and employment law*, social security law, obligations concerning the employer's duty of care, as well as data protection and security. Accordingly, employees in tax may find it useful to get involved in concept development at an early stage. In all cases, it is advisable to examine whether relevant compliance regulations have been observed.

*Legal services are provided by KPMG Law Rechtsanwaltsgesellschaft mbH.

Our solution – your benefit

We work with you to develop a compliant work-from-anywhere strategy. From case-by-case analysis to fundamental design, our Tax and Law experts will support you as required with a structured four-stage process:

1. Strategy – company-specific needs analysis: „How can work/hire from anywhere help your company to achieve its business and talent objectives?"
2. Design – development of general conditions and policies taking into account potential compliance risks: which specific form of work from anywhere fits to your company and which general conditions does this require?"
3. Process planning – implementation planning involving all stakeholders: „What does the company-specific approval and risk management process look like?"
4. Implementation – putting your individual work-from-anywhere strategy into action: „How should your company communicate its international remote work option to achieve the greatest possible success, both internally and externally?"

Beyond temporary work from abroad, we also support you in general to integrate your global mobility and HR processes into your company's ESG and sustainability strategy. This could be as part of the first step to undertake a global mobility-specific ESG Maturity Assessment, a concrete ESG-specific review of your global mobility policies and processes or even the structuring of sustainable remuneration systems.

Perfectly positioned to meet your needs

ESG is set to pick up even greater momentum in the coming years. Be sure to stay on the ball with the help of our interdisciplinary team. Our experts in indirect tax, trade & customs, corporate tax, transfer pricing, payroll, global mobility, international transaction tax and law* work hand in hand to thoroughly examine your ESG-related challenges and to keep abreast of the wider environment. On all of these issues, we work in close cooperation with the lawyers from KPMG Law Rechtsanwaltsgesellschaft mbH to develop integrated solutions tailored to your individual requirements. Get in touch.

*Legal services are provided by KPMG Law Rechtsanwaltsgesellschaft mbH.

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