



Austria - New Wage Tax Withholding Regulations Starting 2020

Changes to the Austrian Income Tax Code were passed recently by the Parliament,¹ which will create an obligation for foreign employers to administer wage tax withholdings in Austria for their employees who are subject to unlimited tax liability in Austria (domestic tax residents) effective January 1, 2020. The new rule will apply even if the employer has no permanent establishment in Austria, and may apply to employees performing their work in an Austrian home office for their foreign employer.

WHY THIS MATTERS

The new law that imposes a tax withholding requirement on wages paid by employers having no permanent establishment in Austria is highly relevant for cross-border employment and assignment structures.

Furthermore, the tax authorities have proposed a draft revision of the wage tax withholding regulations² clarifying that the wage tax should be transferred to the tax ID number of the foreign employer, which could trigger a new tax registration in Austria. Timely review of the employer's current arrangement is recommended especially if the tax was transferred to the tax ID number of the local entity, which currently is not an option foreseen in the proposed regulations, leaving the employer with a further increased tax exposure when the proposed regulations become final.

Background

The obligation for wage tax withholdings requires Austrian payroll administration that includes:

- Registration of the foreign employer with the Austrian tax authorities;
- Administration of a monthly payroll summary;
- Monthly calculation, withholding, and payments of the Austrian wage tax to the tax authorities (until 15th of the month following the wage payment);
- Year-end reporting due the end of February following the year of payment (i.e., annual wage statement).

More Details on New Law

This new law concerns foreign employers of employees who are subject to unlimited tax liability in Austria (taxation of worldwide income), because they have a residence (accommodation at their disposal) or habitual abode in Austria (in general, presence in the country of more than six months). A second residence or a holiday residence in Austria may also trigger the withholding obligation.

Strictly speaking, the obligation of the employer for wage tax withholdings applies to the total income of the employee, regardless of where the duties are performed. If the taxation right over the employment income is (partially) allocated to another country (for example, due to the applicable double taxation treaty), the employment income may in practice be (partially) exempted from Austrian wage tax withholdings if certain criteria are met and proper documentation (travel diary, proof of taxation in the other country, certificate of residence, etc.) is available. The full liability for any wage tax not withheld continues to lie with the employer.

The new law does not have an immediate impact on employees, who are subject to limited tax liability in Austria (because they have no residence or habitual abode in Austria). In such cases, wage tax withholdings can be administered on a voluntary basis by the (foreign) employer.

Generally, the draft-revision of the wage tax withholding guidelines would require every foreign employer to register with the Austrian tax authorities for the purpose of paying wage tax for their employees in Austria.

FOOTNOTES:

1 Abgabenänderungsgesetz 2020 – AbgÄG 2020, BGBl I Nr 91/2019

https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2019_I_91/BGBLA_2019_I_91.pdf#sig

2 Lohnsteuerrichtlinie LStR 2002 - Wartungserlass 2019 Begutachtungsentwurf

https://www.bmf.gv.at/steuern/LStR_WE_2019_-_Begutachtungsentwurf.pdf?77gdwq

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