

Monthly German tax news update

Upper house of parliament approves Annual Tax Act 2024 – legislation will enter into force after signature of the president and publication in the federal gazette

2024年税法改正は上院により承認され、今後大統領による署名と連邦官報への掲載の手続きを経て、発効することとなる。本法律はEU法の発展や判例等を反映させるかたちで更新・修正を含んでいるが、包括的な法改正は含まれない。

- The upper house of the German parliament on 22 November 2024 approved the Annual Tax Act 2024 ("the Act"), following

approval by the lower house of parliament on 18 October 2024. The Act will enter into force after being signed by the president and published in the federal gazette, both of which are mere formalities and are expected to take place in late November/early December 2024.

- The approved law incorporates a variety of technical updates and amendments based on EU law developments and decisions and jurisprudence. The Act does not include any comprehensive tax reform measures or changes in tax rates.

- The most significant measures included in the Act are the following:
As a result of jurisprudence of the federal constitutional court from November 2023, the Act includes a provision allowing the tax neutral transfer of single assets between partnerships with identical partners holding the same interest percentages. ➤

- Several technical updates are included to the Corporate Income Tax Act, Trade Tax Act, Foreign Tax Act (FTA), and Reorganization Tax Act, as well as other tax laws.
- For real estate transfer tax (RETT) purposes, the concept of a “deemed or fictitious real estate-owning entity” as introduced by the federal tax court in two decisions from December 2022, and confirmed by the tax authorities in a 16 October 2023 decree, is abolished. The concept provided significant additional complexity to the RETT rules and could have resulted in triggering RETT twice for a single transaction.
- For purposes of the newly introduced transfer pricing rules in Section 1 (3d) FTA (debt capacity/business purpose test and maximum arm’s length interest rate test) a limited grandfathering rule is introduced. Based on this rule, the new Section 1 (3d) does not apply to expenses incurred before 31 December 2024 related to intercompany financing arrangements that were concluded and executed before 1 January 2024. Where financing arrangements are substantially amended in 2024, the newly introduced transfer pricing provision in Section 1 (3d) only applies to related expenses that are incurred after the amendment of the financing arrangement in 2024.
- The German Pillar Two Implementation Act is amended such that the early reporting requirement of the minimum group tax leader for Pillar Two purposes (see below) also applies where there is only one German constituent entity.

[Link](#)

Early notification required regarding designation of Pillar Two group leader – notification must be filed with federal tax office by 28 February 2025

Pillar 2 (グローバル・ミニマム課税) グループリーダーの指定に関する早期通知義務が公表された。ドイツに支店を含む構成事業体を持つ多国籍企業グループに対し、「ミニマム課税グループのグループリーダー」の指定が義務付けられており、2024年12月31日までにグループリーダーを指定し、リーダーは2025年2月28日までに電子通知を連邦税務署に提出する義務がある。

- Under the German Pillar 2 rules, each MNE group with German resident constituent entities must determine the “group leader” of the minimum tax group on or before 31 December 2024. The group leader then must submit an electronic notification of its designation as a group leader to the federal tax office on or before 28 February 2025.
- Within the minimum tax group, only the group leader owes the minimum tax to the German tax authorities. The group leader of a minimum tax group is determined by three tests applied sequentially:
 - Ultimate parent entity if resident in Germany.
 - German parent entity of the German resident constituent entities; and
 - Designated German resident constituent entity.If no constituent entity is designated after these tests are applied, the economically most relevant German resident constituent entity is deemed to be the group leader.

- The responsibilities of the group leader include:
 - **Tax liability:** The group leader is solely responsible for paying the minimum tax to German tax authorities, based on the income inclusion rule, undertaxed profits rule, or a qualified domestic minimum top-up tax.
 - **Tax return filing:** Obligated to file a centralized minimum tax return with the local tax authorities.
 - **Compensation claims:** It has reimbursement claims from other group members for their share of the minimum tax paid.
 - **Joint liability:** Other group members are jointly and severally liable for the minimum tax owed by the group leader.
- While minimum tax returns for 2024 are generally due by 30 June 2026, immediate action is required to determine and notify the group leader by the specified deadlines. It is currently unclear whether the 28 February 2025 deadline also applies to taxpayers with a deviating fiscal year.

[Link](#)

EU member states reach political consensus on VAT in the Digital Age (ViDA) package

EU加盟国はVAT法の近代化を目的とした、VAT in the Digital Age (ViDA) パッケージについて合意した。ViDAパッケージは、デジタル報告と電子請求書 (DDR)、プラットフォーム経済、単一VAT登録の柱から成り立っており、前回の会合ではプラットフォーム経済に関し、エストニア政府が反対をしたために合意に至らなかったが、今回、各加盟国は法制定の際にある程度柔軟性に対応することができるようになった。

- On 5 November 2024, the Economic and Financial Affairs Council (ECOFIN Council) – after numerous rounds of discussions and collaborative efforts to balance differing national priorities and accommodate specific concerns over the past year – the 27 EU member states have finally reached an agreement on the ViDA package. The package consists of three pillars:
 - Digital reporting requirements (DDR)
 - Platform economy
 - Single VAT registration
- More flexibility was granted to member states within the second pillar, platform economy – during the previous ECOFIN meetings, the Estonian government had opposed the ViDA proposal due to con-

cerns on the second pillar, the platform economy. Now, the member states have more flexibility when implementing this rule.

- The most significant impact for businesses would result from the first pillar DRR requirements, where one of the primary objectives of the proposal—namely the aim to harmonize the e-invoicing and DRR framework for domestic and intra-EU transactions—has not been realized to the extent initially proposed. Consequently, businesses operating across multiple member states would still need to navigate varied models and invest in diverse IT solutions to fulfill these obligations. This challenge is compounded by the fact that member states would retain the option to introduce mandatory B2B and B2C e-invoicing, without the need for a derogation from the European Commission.
- The new rules will be phased in between 2025 and 2035. Specific deadlines vary depending on the measures, allowing member states sufficient time to adapt their national systems. These reforms represent a significant step toward modernizing VAT legislation in the EU, aiming to strengthen the single market and reduce administrative burdens for businesses.

[Link](#)

Commission adopts proposal to ease filing obligations under Pillar Two directive (DAC9)

欧州委員会はPillar 2に基づく多国籍企業の報告義務を簡素化することを目的としたDAC 9を発表した。本指令は以下の内容を含んでいる:

- 単一レポート: 多国籍企業はPillar 2に関し、グループレベルで単一の申告を提出することが可能になる
- 情報共有: EU加盟国の税務当局はこの申告から得た情報を他の加盟国当局と共有することが義務付けられる
- 報告書の標準化: OECDモデルに沿った統一の報告テンプレートの導入

欧州理事会の承認後、加盟国はDAC 9を2025年12月31日までに国内法に反映させることが求められる。

- On October 28, 2024, the European Commission announced that it had adopted a proposal for a so-called DAC 9 to assist MNE groups with their obligations to exchange information as required by the Pillar Two directive.

- Key Provisions of DAC 9 include:
 - **Centralized reporting:** MNEs will be allowed to submit a single top-up tax return at the group level, reducing administrative burdens.
 - **Information exchange:** Tax authorities in EU member states are required to share relevant information from these returns with their counterparts within three months of the filing deadline, or within six months during the first year of implementation.
 - **Standardized reporting format:** A uniform reporting template, aligned with the OECD's model, will be introduced for consistency across jurisdictions.

- Following approval by the EU Council, member states will be expected to implement DAC 9 into national law by December 31, 2025.

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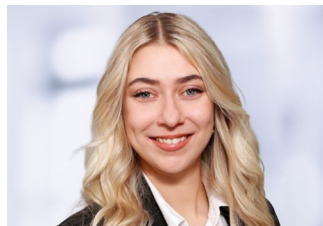
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