



Thinking Beyond Borders: Management of Extended Business Travelers - Austria



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Key message

A person's liability to Austrian tax is determined by residence status for taxation purposes and the source of income derived by that individual. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

1 Key message

Extended business travellers are likely to be taxed on employment income relating to their Austrian workdays.

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Income tax

2 Income Tax

2.1 Liability for income tax

A person's liability to Austrian tax is determined by residence status. A person has unlimited liability to taxation (is a "tax resident") if that person's residence (that is, any home readily available for the resident's use) or habitual place of abode (which is automatically given from the start once the stay exceeds six months but possibly also earlier) is in Austria. The general rule is that such a person is assessable on worldwide income.

If neither of these conditions is fulfilled, the person has only limited liability to taxation (is a "nonresident") in Austria, in other words, is generally assessable only on income derived directly or indirectly from sources in Austria. Extended business travelers are likely to be considered nonresidents of Austria for tax purposes unless they enter Austria with the intention to remain in Austria on a permanent basis.

2.2 Definition of source

Employment income is generally treated as Austrian-sourced compensation when the work is performed or used in Austria.

2.3 Tax trigger points for employment income

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Austria. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will usually not apply, if the Austrian entity is the individual's economic employer.

2.4 Types of taxable income

For extended business travelers, the types of income that are generally taxed are e.g. employment income, Austrian-sourced investment income, and gains from taxable Austrian assets (such as real estate).

2.5 Tax rates

Taxable income is subject to progressive tax rates of up to 55 percent, starting at an annual income of EUR 11,693:

Annual taxable income (euros)		Tax rate on total income
From/above	To	
0	11,693	0%
11,693	19,134	20%
19,134	32,075	30%
32,075	62,080	41%**
62,080	93,120	48%
93,120	1,000,000	50%

Annual taxable income (euros)		Tax rate on total income
From/above	To	
1,000,000		55%

** The 3rd bracket will be reduced from 42% to 40% as of July 1, 2023; hence for 2023, an average rate for this bracket of 41% has to be considered

Source: Income Tax Act, 2023

Austrian tax law distinguishes between regular payments, which basically recur every month, and special (nonrecurring) payments. A special tax regime for special payments not exceeding one-sixth of regular payments exists:

	2023
	EUR
Tax-free amount (per year, no proration)	620
From EUR 621 to EUR 25,000	6%
From EUR 25,001 to EUR 50,000	27%
From EUR 50,001 to EUR 83,333	35.75%
From EUR 83,333	Regular tax rate up to 55%

For the assessment of an individual who is subject to limited tax liability in Austria, the amount of EUR 9,567 is added automatically by the tax authorities to the taxable income in order to reduce the annual tax-free amount to EUR 2,126.

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Social Security

3 Social Security

3.1 Liability for social security

The Austrian social insurance scheme, which is a statutory system, includes insurance for health, accident, unemployment, and pension. In principle, employment in Austria is the criterion for being included. As a result, Austrian nationals and others working within the territory of Austria are treated equally.

The contributions consist of an employee's element and an employer's element: The employee's element amounts to 18.12 percent. This rate applies for regular payments (those that recur every month, such as the monthly base salary).

In addition, there is a maximum contribution basis of EUR 5,850 per month for regular payments. The rates for special payments (those that do not occur on a monthly basis, such as a bonus) amount to 17.12 percent; the maximum contribution base for special payments is EUR 11,700 per year.

The employer's rates on regular payments amount to **21.03** percent and on special payments to **20.53** percent. The same maximum contribution base apply.

Due to the EU regulation 883/2004 (respectively, 1408/71 in some cases) and a number of social security totalization agreements, extended business travellers are usually exempt from Austrian social security.

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Compliance obligations

4 Compliance obligations

4.1 Employees' compliance obligations

Tax returns are due by April 30 of the following year or by June 30 if filed electronically. If the taxpayer is represented by a tax advisor, the deadline is automatically extended until March 31 of the next following year.

Generally, a tax return must be filed only, if the resident individual's taxable income exceeds EUR 12,756 (in case of wage tax withholding) and EUR 11,693 (in all other cases). Income tax on employment income is usually but not always withheld at source (wage tax). Nevertheless, a tax return is required if no such withholding occurred, if the individual has additional annual income in excess of EUR 730 per year not previously subject to employer withholding or more than one form of employment. A threshold of only EUR 22 applies for foreign income from investments.

Non-resident individuals must file an income tax return whenever they have taxable income in excess of EUR 2,126 from a taxable source, unless the withholding tax applied represents the final settlement of the tax liability. In case of lower income, no tax return filing is required if certain conditions are met and taxation in the other state can be documented.

4.2 Employers reporting and withholding requirements

If the remuneration is paid by an Austrian employer, the employer is obliged to calculate wage tax on behalf of the employee and remit it by the 15th of the following month to the tax authorities. The employer is responsible for the correct remittance.

Payroll-related employer taxes include municipal tax (3 percent of gross compensation), contribution to the Family Burden Equalization Fund (3.9 percent of gross compensation; possibility to reduce to 3.7 percent), and surcharge for Chamber of Commerce (approximately 0.4 percent of gross compensation). Depending on the social security status in Austria, exemptions are available.

Wage tax and reporting requirements for foreign employers could be triggered by a permanent establishment for wage tax purposes or by an employee who is subject to unlimited tax liability.

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Immigration

5 Immigration

This summary provides basic information regarding immigration requirements to Austria. The information is of general nature and should not be relied upon as legal advice and does not substitute for an individual immigration and employment law assessment.

5.1 Work permit/visa requirements

In general, there are no visa requirements for moves within the EU for EU nationals (although there can be visa requirements for arrivals from new member states). A visa must usually be applied for before third-country-nationals enter Austria. The type of visa required will depend on the purpose of the individual's entry into Austria.

Other immigration considerations

In case neither a work permit nor a visa have to be obtained there may still be the employer's obligation to perform certain registrations, e.g. with the competent tax authorities. A third-country-national being assigned by a company with place of business in another EEA member state for the purpose of temporary work performance does not need any permits provided the third-country-national is duly employed at the employer's place of business at least during the assignment and the applicable Austrian regulations concerning wages and Social Security are maintained. The employer has to observe mandatory reporting requirements (e.g. ZKO notifications) though with the competent authorities as well as keep specific information / documents available and faces considerable administrative penalties in case of non-compliance.

However, in case a third-country-national is assigned to Austria from a third-country, a visa/residence permit as well as a work permit may be required, depending on the exact nationality, activity in Austria and duration of the assignment. In case of intra-group assignments longer than six months, a combined work- and residence permit "ICT" may be applicable if the requirements are met. This combined work- and residence permit results from the implementation of the EU Directive 2014/66/EU (ICT-Directive).

Both the activity in Austria as well as the intended or actual duration of the stay of the extended business traveler is a decisive factor for the question if and which permits have to be obtained or if and which reporting requirements have to be observed. Citizens of the European Union can move within the EU according to the regulations of the Schengen Agreement basically without further permit requirements. They may – depending on the duration of their stay – have to obtain an EU-registration certificate ("Anmeldebescheinigung") with the Austrian authorities. Holders of a non-restricted Schengen-visa for a short-term stay (category "C") may move during its period of validity within the territory of the Schengen member states. Third country nationals in possession of a national visa of a Schengen member state may move during its period of validity within the territory of the Schengen member states up to a limited duration of 90 days within a 180 days-period. The requirement to obtain a work permit may be omitted in case the work performance does not exceed a few days and no domestic employees could be used with respect to the particular nature of the work. However, this has to be assessed individually.

Additionally, in general all persons taking residence in Austria have to conduct a local residence registration ("Melderegistrierung"), whereas for non-compliance administrative penalties might be imposed.

Immigration compliance

Immigration related compliance regulations for extended business travelers and their employers are found in various legal areas. Penalties for non-compliance may – depending on the importance of the violated regulation – also be imposed in a considerable amount (for instance according to the Employment of Foreign Nationals Act and/or the Anti-Wage and Social Dumping Act). Usually there is a legal liability of

the employer, depending on the penalty there may in certain cases also be a liability of the employee or of both (employer and employee) though.

Apart from the most commonly applicable legal provisions in the areas of taxation, residence, employment and social security, immigration related compliance regulations may also be found in domestic registration law, anti-discrimination law (immigration-related discrimination) or health law. Depending on the particular case further legal regulations may have to be observed by the extended business traveler and/or employer, e.g. in the field of export control or technology transfer.

Measures to prevent wage and social dumping

In order to avoid wage and social dumping that could be caused by the posting or temporary employment (hiring-out) of workers from so-called low-wage countries, Austria has implemented restrictive regulations (particularly in the Anti-Wage and Social Dumping Act). A number of measures ensure equal pay conditions for employees working in Austria. Among others, the compliance with statutory minimum remuneration in Austria and mandatory labor regulations. Employees posted or hired-out to Austria are entitled to the remuneration which is stipulated in the Austrian laws, regulations or collective bargaining agreements and which other comparable employees at the place of work in Austria would receive. Furthermore, the employer (in case of a posted employee) respectively the Austrian lessee (in case of a hired-out employee) has to keep wage/salary records in German or English language ready for inspection at the place of work (in Austria).

In case of transnational posting of (temporary) workers, who are employees by a company based in the EEA or Switzerland, these must be reported prior to commencement of work to the Central Coordination Office for the control of Illegal Employment (in German: "Zentrale Koordinationsstelle des Bundesministeriums für Finanzen für die Kontrolle illegaler Arbeitnehmerbeschäftigung") (for posted employees by use of the form ZKO 3, for temporary employees by use of the form ZKO 4). For this purpose, only the electronic forms of the Federal Ministry of Finance must be used.

The most important exemptions are highlighted below. Please note that these exemptions are applicable for assignments only (as defined), except for the last one (temporary intra-group assignments/hiring-outs) which is also applicable for the hiring-out of employees:

- Business meetings, as long as no further services are rendered.
- Participation in seminars, as long as no further services are rendered.
- Trade fairs and events similar to trade fairs (this exemption is not applicable for preparatory and concluding work).
- Attending and participating in conferences.
- In cases involving "transit traffic," activities by mobile employees or crew-persons in the cross-border transport of goods or passengers.
- In cases where the employee concerned receives a monthly gross remuneration in an amount of at least 120 percent of thirty-times the daily ASVG-maximum contribution basis.
- Temporary intra-group assignments or hiring out of especially qualified employees for the maximum of two months per calendar year, as long as the work in Austria is for purposes of research and development, planning of project work, holding of a training, or otherwise for purposes of exchanging experiences, consulting the company, controlling or participating in a cross-border group-department with management and planning functions, or work on delivery, installation (and associated training), maintenance, servicing and repair of machinery, equipment and IT systems.

Please note that the required permits/notifications/registrations/etc. highly depend on the facts and circumstances of the individual case and therefore request for a case-by-case analysis.

As of September 1, 2021, the Anti-Wage and Social Dumping Act underwent its most important amendment to date and the highlights are as follows:

- The definition of posting in the Anti-Wage and Social Dumping Act is harmonized with that of the Posting Directive of the European Union.
- Postings and leasing of higher-income workers to Austria are generally excluded from the Anti-Wage and Social Dumping Act.
- For inbound postings and leases, the Austrian labor law standards set out by law, ordinance or collective agreement apply in full from the time they exceed the period of 12 months, provided they are more favorable than the corresponding standards of the sending country. An extension of the stated period to 18 months is possible in justified cases.
- The revision of the penal provisions primarily leads to the omission of the accumulation principle (punishment per employee), whereby this applies to both reporting offenses and the punishment of underpayment.

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Other issues

6 Other issues

6.1 Double taxation treaties

In addition to Austria's domestic arrangements that provide relief from international double taxation, Austria has entered into double taxation treaties with about 90 countries to prevent double taxation and allow cooperation between Austria and foreign tax authorities in enforcing their respective tax laws.

6.2 Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

6.3 Indirect taxes

Value-added tax (VAT) is applicable at 20,13 or 10 percent on taxable supplies (until December 31, 2021, a reduced VAT rate of 5% was introduced on special supplies). VAT registration may be required in some circumstances.

6.4 Transfer pricing

Austria has a transfer pricing regime. A transfer pricing implication could arise to the extent that an employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

6.5 Local data privacy requirements

There are data privacy laws in force in Austria.

6.6 Exchange control

Foreign currencies can be exchanged at the daily exchange rates. Travelers' checks can be cashed easily in Austria, and credit cards are accepted almost everywhere. There are no restrictions on the import and export of either the euro or other foreign currencies (except that cash of more than EUR10,000 needs to be declared).

6.7 Non-deductible costs for assignees

Non-deductible costs for assignees include, for example, payments by an employer that have already been treated tax-free on the Austrian payroll.

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