

99102083058000

Verständigungs- und Schiedsverfahren nach der EU-Schiedskonvention Durchführung

Heruntergeladen am 01.07.2025

<https://fimportal.de/xzufi-services/102554714/B100019>

| Modul | Sachverhalt |
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| Leistungsschlüssel | 99102083058000 |
| Leistungsbezeichnung I | Verständigungs- und Schiedsverfahren nach der EU-Schiedskonvention Durchführung |
| Leistungsbezeichnung II | Requesting mutual agreement and arbitration proceedings under the EU Arbitration Commission |
| Typisierung | 1 - Bund: Regelung und Vollzug |
| Quellredaktion | Bund |
| Freigabestatus Katalog | fachlich freigegeben (gold) |
| Freigabestatus Bibliothek | unbestimmter Freigabestatus |
| Begriffe im Kontext | |
| Leistungstyp | Leistungsobjekt mit Verrichtung |
| Leistungsgruppierung | |

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| Verrichtungskennung | Durchführung (58) |
| SDG-Informationsbereich | Sonstige Steuern: Zahlung, Sätze, Steuererklärungen |
| Lagen Portalverbund | Steuern und Abgaben für Betriebe (2040200) |
| Einheitlicher Ansprechpartner | Nein |
| Fachlich freigegeben am | 14.06.2021 |
| Fachlich freigegeben durch | Federal Ministry of Finance (BMF) |
| Handlungsgrundlage | https://eur-lex.europa.eu/legal-content/DE/TXT/HTML/?uri=CELEX%3A41990A0436&from=de |
| Teaser | <p>If you believe that a transaction between your company and an associated company is being taxed twice in another EU Member State, you can make a claim under the EU Arbitration Convention.</p> |
| Volltext | <p>Mutual agreement procedures aim to</p> <ul style="list-style-type: none"> • to protect the taxpayer's right to be taxed in accordance with the Convention, and • avoid double taxation. <p>In principle, companies must make the request in their State of residence. In the case of a permanent establishment, the request may also be made in its State of residence. A mutual agreement procedure will only be initiated if your request is</p> <ul style="list-style-type: none"> • is admissible and well-founded and • double taxation cannot be remedied unilaterally. <p>The mutual agreement procedure clarifies the tax claims of the states involved that have double-taxed income. The only parties to the mutual agreement procedure are therefore the contracting states involved. As the applicant, you are not involved in the procedure yourself. However, they are regularly informed about the status and progress of the procedure. In the vast majority of cases, an agreement is reached between the states. If the mutual agreement procedure between the authorities involved</p> |

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from 2 (or more) contracting states has not led to the elimination of your double taxation within 2 years of the initiation of the mutual agreement procedure, arbitration proceedings can be initiated upon request.

For this purpose, an advisory committee is formed, which usually consists of the following persons:

- 1 independent chairperson,
- 1 representative of each of the competent authorities, and
- an even number - as a rule 2 - of independent persons.

They have the opportunity to comment on the factual and legal situation vis-à-vis the Advisory Committee. On completion of its work, the Advisory Committee shall deliver an opinion. The competent authorities of the Contracting States involved in the case now have time to reach agreement. They may depart from the opinion of the Advisory Committee, provided that double taxation is avoided. If they cannot agree on a different arrangement, they are bound by the Advisory Committee's opinion as an award. At the end of the arbitration proceedings, your double taxation can be eliminated if the taxpayers involved agree to the solution and declare a waiver of appeal (compare the explanations under "Procedure").

The Federal Central Tax Office (BZSt) is the authority responsible for initiating mutual agreement procedures in Germany. You must submit the application for the initiation of a mutual agreement procedure informally in writing to the BZSt.

Note: In principle, companies must file the application in their state of residence. In the case of a permanent establishment, the application can also be submitted in its country of residence.

Erforderliche Unterlagen

When submitting an application for a mutual agreement procedure, you must submit

- the name, address, tax identification number and local tax office of the person(s) entitled to the

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agreement of the applicant company the contracting state and the other parties to the transactions in question

- details of the facts and circumstances relevant to the case (including details of the relationship between the company and the other parties to the relevant transactions)
- details of the relevant tax periods
- Copies the tax assessment notices the tax audit report or comparable documents which gave rise to the alleged double taxation other relevant documents (e.g. contracts, applications for refund/reduction of foreign withholding tax)
- details of any out-of-court or judicial redress procedures, any legal proceedings initiated by the company or the other parties involved in the relevant transactions any court decisions relating to the case
- a statement by the enterprise as to how it considers that the principles set out in Article 4 of the Arbitration Convention have not been complied with
- an undertaking by the company that it will as fully and as soon as possible

respond to all reasonable and appropriate enquiries from a competent authority and provide documentation to the competent authorities

Voraussetzungen

Applications for a mutual agreement procedure may be submitted by:

- companies and, where applicable, their permanent establishments (natural and legal persons), who are resident in Germany and Income (insofar as it relates to transfer prices) Member States of the European Union, for whom double taxation is imminent or has occurred

Kosten

- none

Notes: Fees may be charged for pre-appraisal procedures. Costs incurred by the applicant (for example, for the compilation of documents or for legal advice) will not be reimbursed.

Verfahrensablauf

You must submit the application to initiate a mutual

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agreement procedure in writing to the Federal Central Tax Office (BZSt).

- Compile the necessary documents and records. Send the signed application in triplicate by post to the BZSt.
- The BZSt will confirm receipt of your application in writing. The BZSt will first check whether the conditions for carrying out a mutual agreement procedure are met. If your application is admissible and justified and the double taxation cannot be eliminated unilaterally,

the intergovernmental part of the mutual agreement procedure will be initiated.

- As the applicant, you are not involved in the procedure yourself. However, you will receive regular information on the status and progress of the procedure.
- As soon as a mutual agreement has been reached between Germany and the other EU country involved, you will be informed of the result.
- You must confirm in writing that you agree to the mutual agreement solution and waive your right to appeal against its correct implementation, and that you withdraw any legal remedies or appeals you may have lodged independently of the request to initiate the mutual agreement procedure, insofar as they relate to the subject matter of the mutual agreement procedure.
- The negotiated settlement can now be implemented.

If the mutual agreement procedure has not produced a result even after 2 years from the expiry of the arbitration period and no extension of the period has been agreed:

- Arbitration proceedings will be initiated upon request and an Advisory Committee will be formed.
- You have the opportunity to comment on the factual and legal situation vis-à-vis the Advisory Committee.
- Upon completion of its work, the Advisory Committee shall issue an opinion.
- The competent authorities of the Contracting States involved in the case may now agree on a solution (which may differ from the opinion of the Advisory

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Committee). If the competent authorities involved do not agree, the procedure will be closed in accordance with the opinion of the Advisory Committee after six months have elapsed since the opinion was communicated.

- As soon as a solution has been reached between Germany and the other EU member state involved, you will be informed of the outcome.
- You must confirm in writing that that you agree to the outcome of the arbitration and waive your right to appeal against the correct implementation of the arbitration, and that you withdraw any remedies or appeals you may have submitted independently of the request for arbitration to the extent that they relate to the subject matter of the arbitration.
- The result of the arbitration may now be implemented.

Bearbeitungsdauer

- for processing the request: 24 months
- for the initiation of arbitration: 2 years after the start of the mutual agreement procedure (upon request, if the latter has remained without result and no extension of the mutual agreement procedure is agreed)
- for the award of the advisory commission: 6 months after submission of all necessary documents
- agreement between the competent authorities involved or and notification of the result: within 6 months after the award of the advisory commission

Frist

- Application: within 3 years of the first notification of the measure, the causes or is likely to cause double taxation could give rise to double taxation

weiterführende Informationen

https://www.bzst.de/DE/Unternehmen/EUInternational/Verstaendigungsverfahren/verstaendigungsverfahren_node.html#js-toc-entry7
https://www.bundesfinanzministerium.de/Content/DE/Downloads/BMF_Schreiben/Internationales_Steuerrecht/Allgemeine_Informationen/2018-10-09-Verstaendigungsverfahren-Schiedsverfahren-Merkblatt.pdf?__blob=publicationFile&v=3
https://www.bzst.de/SharedDocs/BMF/DE/Downloads/bmf_Schreiben_20050412_Verstaendigungsverfahren_Verwaltungsgrundsaeetze.pdf?__blob=publicationFile&v=5

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| | https://www.bzst.de/SharedDocs/BMF/DE/Downloads/bmf_Erlass_20110620.pdf?__blob=publicationFile&v=8 |
| Hinweise | |
| Rechtsbehelf | <ul style="list-style-type: none"> • Objection in case of leaning of the application • Tax court action |
| Kurztext | <ul style="list-style-type: none"> • Mutual agreement and arbitration procedures under the EU Arbitration Convention Implementation. • Eliminate double taxation: Apply for mutual agreement procedure if there is a threat of double taxation on income (as far as transfer prices including permanent establishment profit allocation are concerned) in member states of the European Union (EU). • if the mutual agreement procedure has remained inoperative for 2 years, arbitration proceedings may be initiated upon request • Requests for a mutual agreement procedure can be submitted: Companies and, where applicable, their permanent establishments (natural and legal persons) who are resident in Germany and Income (insofar as it relates to transfer prices) generated in member states of the European Union for whom double taxation by Germany and another EU member state is imminent or has already occurred. • Information provided by: Federal Central Tax Office (BZSt) • Request via: the persons concerned can apply for the mutual agreement procedure in writing in their respective country of residence (in Germany at the Federal Central Tax Office (BZSt)) in the case of permanent establishments, the application can be made in their state of residence • responsible: Federal Central Tax Office (BZSt) |
| Ansprechpunkt | https://www.bzst.de/SiteGlobals/Kontaktformulare/DE/Verstaendigungsverfahren/kontakt_node.html |
| Zuständige Stelle | https://www.bzst.de/SiteGlobals/Kontaktformulare/DE/Verstaendigungsverfahren/kontakt_node.html |
| Formulare | <ul style="list-style-type: none"> • Forms: no • Online procedure possible: no • Written form necessary: yes |

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| | <ul style="list-style-type: none"> • Personal appearance: no <p>Signed, informal application in written form</p> |
| Ursprungsportal | Verständigungs- und Schiedsverfahren nach der EU-Schiedskonvention Durchführung, Verständigungs- und Schiedsverfahren nach der EU-Schiedskonvention Durchführung |