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Verständigungs- und Schiedsverfahren nach den DBA Durchführung

Heruntergeladen am 23.07.2025

<https://fimportal.de/xzufi-services/102730394/B100019>

Modul	Sachverhalt
Leistungsschlüssel	99102125058000
Leistungsbezeichnung I	Verständigungs- und Schiedsverfahren nach den DBA Durchführung
Leistungsbezeichnung II	Apply for a mutual agreement procedure under the double taxation agreement (DTA)
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	
Verrichtungskennung	Durchführung (58)
SDG-Informationsbereich	Sonstige Steuern: Zahlung, Sätze, Steuererklärungen

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Lagen Portalverbund	Steuern und Abgaben für Betriebe (2040200)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	22.05.2024
Fachlich freigegeben durch	Federal Ministry of Finance (BMF)
Handlungsgrundlage	https://read.oecd-ilibrary.org/taxation/model-tax-convention-on-income-and-on-capital-2017-full-version_g2g972ee-en#page98 https://www.bundesfinanzministerium.de/Web/DE/The men/Steuern/Internationales_Steuerrecht/Staatenbezogene_Informationen/staatenbezogene_info.html
Teaser	If you are of the opinion that your taxation violates a double taxation agreement, you can apply for a mutual agreement procedure under certain conditions.
Volltext	<p>If you are of the opinion that your taxation is in breach of a double taxation agreement (DTA), you can apply for a mutual agreement procedure under certain conditions. The aim of mutual agreement procedures is to</p> <ul style="list-style-type: none"> • to protect the taxpayer's right to taxation in accordance with the double taxation agreement and • to avoid taxation that does not comply with a DTA (e.g. double taxation). <p>The legal basis for a mutual agreement procedure can be found in the respective DTA.</p> <p>A DTA is an agreement between two countries that regulates the allocation of the right to tax cross-border income (e.g. in the case of residence in one country and source of income in the other country).</p> <p>Germany has concluded DTAs with over 90 countries worldwide. Most of these DTAs follow the OECD Model Tax Convention, which is widely used internationally. The OECD Model Tax Convention contains the regulations on mutual agreement procedures.</p> <p>The Federal Central Tax Office (BZSt) is the authority</p>

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responsible for such mutual agreement procedures in Germany.

If you are resident in Germany, you can submit an informal written request to the BZSt to initiate a mutual agreement procedure.

If you are not resident in Germany, you must generally submit the application for a mutual agreement procedure to the competent authority in your country.

The mutual agreement procedure under the DTA will only be initiated if your request is

- is admissible and justified and
- the taxation in Germany cannot be corrected on its own.

The mutual agreement procedure is used to clarify or delimit the tax claims between the two states between which a DTA exists. The parties to the mutual agreement procedure are therefore solely 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.

In addition, more recent DTAs often contain provisions that require arbitration proceedings to resolve the dispute if the competent authorities of the two states fail to reach an agreement within a certain period of time (e.g. DTAs with Austria, Switzerland, France, Luxembourg, the Netherlands and the USA). In this case, the dispute is then submitted to a panel of independent arbitrators for a decision. The details are regulated differently in the agreements.

Note In the event of disputes between the member states of the European Union (EU) regarding agreements to eliminate double taxation, you can, under certain conditions, submit a complaint in accordance with the EU Double Taxation Agreement Dispute Settlement Act (EU-DBA-SBG).

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Erforderliche Unterlagen

When applying for a mutual agreement procedure, you must submit

- the name, address (registered office), tax number and local tax office of the person affected by the taxation (person entitled to the agreement)
- detailed information on the facts and circumstances relevant to the case
- Information on the tax periods affected by the application
- Copies of the tax assessment notices, the tax audit report or comparable documents that led to the alleged double taxation as well as other relevant documents e.g. contracts, applications for refund/reduction of foreign withholding tax
- detailed information on any extrajudicial or judicial appeal proceedings and any domestic or foreign court rulings relating to the case
- in cases of profit allocation between affiliated companies and permanent establishments, the information and documents that must also be submitted for an application under the EU Arbitration Convention
- a statement by the person entitled to the treaty as to how, in their opinion, the taxation at home or abroad does not comply with the treaty

Voraussetzungen

Applications to initiate a mutual agreement procedure under a double taxation agreement (DTA) can be made by

- Individuals or companies who are of the opinion that their taxation in Germany or abroad is in breach of a DTA and whose income is taxed in Germany and taxed abroad so that there is a risk of double taxation.

Please note If you are not resident in Germany, you must submit your application to the competent authority in your country.

Kosten

Fees may be charged for preliminary consultation procedures.

The costs incurred by the applicant (e.g. for compiling the documents or for legal advice) will not be

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	reimbursed.
Verfahrensablauf	<p>You must submit the application to initiate a mutual agreement procedure informally in writing.</p> <ul style="list-style-type: none"> • Compile the necessary documents and papers. Send the signed, informal application by post to the Federal Central Tax Office (BZSt). • Upon receipt of the application, the BZSt will first check whether the requirements for carrying out a mutual agreement procedure have been met. If your application is admissible and justified and cannot be resolved in Germany, the intergovernmental part of the mutual agreement procedure will be initiated. • As the applicant, you are not involved in the procedure. However, you will receive regular updates on the status and progress of the procedure. • As soon as a mutual agreement has been reached between Germany and the other state involved, you will receive notification of this by post. • The mutual agreement will become binding and will be implemented when you confirm it. agree to it in writing, waive the right to appeal and withdraw current legal remedies.
Bearbeitungsdauer	<p>The duration of mutual agreement procedures can vary greatly and depends on a number of factors. Several authorities in Germany and abroad are involved in the proceedings. Depending on the circumstances of the individual case, the duration of proceedings can be as short as a few months or as long as several years.</p>
Frist	<p>2 Jahr(e)</p> <p>You must submit the application within 2 years of notification of the tax measure. Note The mutual agreement clauses of most double taxation agreements (DTAs) contain special deadlines for filing applications. Applications based on the EU Arbitration Convention and the EU DTA-SBG must be submitted within 3 years.</p>
weiterführende Informationen	<p>https://www.bzst.de/DE/Unternehmen/EUInternational/Verstaendigungsverfahren/verstaendigungsverfahren_node.html</p> <p>https://www.bundesfinanzministerium.de/Content/DE/</p>

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Downloads/BMF_Schreiben/Internationales_Steuerrecht/Allgemeine_Informationen/2024-02-21-merkblatt-zu-internationalen-verstaendigungs-und-schiedsverfahren-streitbeilegungsverfahren-auf-dem-gebiet-der-steuern-vom-einkommen-und-vom-vermoegen.pdf?__blob=publicationFile&v=2
https://www.bzst.de/SharedDocs/BMF/DE/Downloads/bmf_Erlass_20110620.pdf?__blob=publicationFile&v=8
https://www.bundesfinanzministerium.de/Web/DE/Themen/Steuern/Internationales_Steuerrecht/Staatenbezogene_Informationen/staatenbezogene_info.html

Hinweise
Rechtsbehelf

- Objection
- Fiscal court action

Kurztext

- Mutual agreement and arbitration proceedings under the DBA Implementation
- Avoid double taxation: Apply for a mutual agreement procedure if the taxation is in breach of a double taxation agreement (DTA)
- Applications for a mutual agreement procedure can be made: Private individuals or companies who are of the opinion that their taxation in Germany or abroad is in breach of a DBA and whose income is taxed in Germany and taxed abroad so that there is a risk of double taxation
- the mutual agreement solution is implemented on a binding basis if the applicant agrees to it in writing and waives the right to appeal and withdraws current legal remedies
- Information from: Federal Central Tax Office (BZSt)
- Application via: persons resident in Germany must submit an informal written application for the mutual agreement procedure to the Federal Central Tax Office (BZSt) Persons resident abroad must apply for the mutual agreement procedure with the competent authority in their country
- responsible: Federal Central Tax Office (BZSt)

Ansprechpunkt
Zuständige Stelle
Formulare

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Ursprungsportal

Verständigungs- und Schiedsverfahren nach den DBA Durchführung, Verständigungs- und Schiedsverfahren nach den DBA Durchführung