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Bundesministerium für Finanzen
Steuer- und Zollkoordination
Finanzämter
Großbetriebsprüfung
Finanzpolizei
Steuerfahndung
Bundesfinanzgericht

Konsultationsvereinbarung zu den Auswirkungen der COVID-19-Pandemie auf die Grenzgängerregelung iSd Art. 15 Abs. 4 DBA-Italien

Der nachfolgende Erlass gibt den Inhalt einer zwischen der Republik Österreich und der Republik Italien auf Basis von Artikel 25 Absatz 3 des DBA-Italien abgeschlossenen Konsultationsvereinbarung wieder. Die Konsultationsvereinbarung dient der Klärung der Wirkungsweise des Artikels 15 Absatz 6 (Grenzgängerregelung) des Abkommens in Bezug auf Steuerpflichtige, die üblicherweise zu ihrem Arbeitsort pendeln, derzeit aber aufgrund der Eindämmung der Verbreitung von COVID-19 im Homeoffice arbeiten. Die Konsultationsvereinbarung dient dabei nur als vorübergehende Maßnahme, um das Ausmaß der persönlichen Belastungen für grenzüberschreitend tätige Arbeitnehmer angesichts der COVID-19-Pandemie möglichst gering zu halten.

Competent authority agreement between the competent authority of the Republic of Austria and the competent authority of the Republic of Italy concerning the interpretation and application of the Convention between the Republic of Austria and the Republic of Italy for the avoidance of double taxation and the prevention of tax evasion and avoidance with respect to taxes on income and on capital concerning the effects of the COVID-19 Pandemic on Article 15 paragraph 4 of the Convention

The competent authority of the Republic of Austria and the competent authority of the Republic of Italy, desiring to minimize the negative tax consequences of the COVID-19 pandemic and in particular the burden of cross-border workers, have concluded the following

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competent authority agreement according to Article 25 paragraph 3 of the Convention between the Republic of Austria and the Republic of Italy for the avoidance of double taxation and the prevention of tax evasion and avoidance with respect to taxes on income and on capital, signed in Vienna on the 29th June 1981 as amended by the Protocol signed in Vienna on the 25th November 1987 ("the Convention") with respect to the interpretation and application of Article 15 paragraph 4 of the Convention:

1. Interpretation and Application of the frontier-worker-rule in the sense of Article 15 paragraph 4 of the Convention

(1) The special rule regarding the taxation of income of frontier workers under Article 15 paragraph 4 of the Convention requires – besides the place of residence and the workplace close to the border – that the respective taxpayers usually („*üblicherweise*" respectively „*abitualmente*") commute to their place of work. Thus, the exclusive right to tax is conferred on the State of residence.

Herewith the competent authorities of both Contracting States agree that taxpayers usually commuting to their place of work, but currently working in home office due to the prevention of the spread of COVID-19, shall still be taxed as frontier workers under Article 15 paragraph 4 of the Convention.

2. Entry into force and termination

(2) This competent authority agreement enters into force on the date after the last of the signatures by the competent authorities. It applies in the context of employment exercised between March 11th 2020 and June 30th 2020 and extends from June 30th 2020 automatically from the end of a calendar month to the end of the next calendar month, unless it is terminated by the competent authority of one of the Contracting States at least one week before the beginning of the following calendar month by means of a written declaration, to the other competent authority of the other Contracting State, following a consultation between the competent authorities.

Bundesministerium für Finanzen, 27. Juni 2020