

Breaking Tax News Tackling taxes



Reporting requirement for payments in 2012

Reporting Requirement pursuant to Sec 109a Income Tax Act

Entrepreneurs as well as public and private corporations are **obliged to disclose compensations paid for services** performed on a freelance/entrepreneurial basis by persons and associations of persons without legal entity-status in the year 2012. The disclosure shall be conducted **electronically by February 28, 2013 at the latest**. Non-electronical reporting must be carried out until January 31, 2013.

Examples are services performed by members of the supervisory board, members of the managing board of a foundation ("Privatstiftung"), freelance speakers/lecturers, insurance agents and sales representatives of convenience goods, as well as services performed by a contractor.

The disclosure has to include the name (firm), residence/principal place of business, as well as the insurance or taxpayer identification number of the payee. **Services of the same type** of a single person must be reported in **one** combined **annual disclosure**; **different services** of one person (e.g. freelance speaker/lecturer and other services of a contractor), however, must be disclosed **separately**. VAT, if included, has also to be reported.

The electronic transmission might be conducted via Statistics Austria or via the electronic data system of the social insurance institutions under www.elda.at.

No reporting requirement occurs, if the total compensation (including journey-cost refund) for one calendar year is not more than EUR 900.00 per person/association of persons; furthermore the compensation for every single service (including journey-cost refund) must not be higher than EUR 450.00 in such a case. Entrepreneurs or public/private corporations obliged to issue 109a-reportings must hand out **a copy of the disclosure to the payee**.

Reporting requirement pursuant to Sec 109b Income Tax Act

Particular abroad payments accomplished in 2012 have to be reported electronically to the competent fiscal authority by 28 February 2013 at the latest. Non-electronical reporting must be carried out until January 31, 2013.

Mandatory reporting according to Sec 109b Income Tax Act concerns **entrepreneurial services** (Sec 22 Income Tax Act), if **performed in Austria** (e.g. notaries, lawyers, interpreters etc.). Furthermore, the reporting obligation covers **agency services** performed by income tax payers resident in Austria or agency services strongly relating to Austria (according to BMF-010203/0134-VI/6/2012 not the export of domestic current assets, see also [BTN No 8 of March 30, 2012](#)) as well as **commercial and technical consultancy** services performed in

Austria (e.g. consultant, consultancy concerning licensing etc.); the reporting obligation, however, only comes into effect if **compensation is paid abroad**. The intention of the article is to cover all kind of payments, irrespective whether these are paid to unlimited or limited income tax payers or if these payments are exempt from Austrian taxation under application of a double taxation treaty.

The report comprises information concerning the supplier, the country or countries to which the payment was made as well as the payable amount. The report has to be filed to the tax office being responsible for the reporter's VAT.

Reporting is not required if payments to one single service supplier are below EUR 100.000 within one year, if income tax payers not resident in Austria are subject to withholding tax according to Sec 99 Austrian Income Tax Act or if payment is made to a foreign corporation, which is subject to a corporate income tax rate higher than 15%.

If the duty to report is neglected intentionally, the fiscal authority can charge a fine of up to 10% of the amount subject to reporting obligation. The maximum fine chargeable is EUR 20.000 (Art. 49a Sec 3 Fiscal Penal Act).

Your Deloitte Tax Advisor will be happy to answer your questions.

Audit.Tax.Consulting.Financial Advisory.

Responsible for the contents: Deloitte Austria. This Newsletter merely contains general information that cannot substitute professional advice in individual cases. Accordingly, Deloitte expressly excludes and disclaims any warranty and liability for the newsletter and the information contained therein. Please contact us for personal advice. Please inform your advisor, if you wish this Newsletter to be transmitted electronically to any other staff member of your company, or if you do not want to receive this information in the future anymore. Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.