

By PwC Deutschland | 21. Mai 2025

MoF: Circular on cross-border audit cooperation with foreign tax administrations

The Federal Ministry of Finance (MoF) has revised its guidelines regarding the exchange of information and the associated external audit titled “instruction sheet on cross-border audit cooperation with tax administrations of other countries and territories: joint and simultaneous audits and presence of officials”.

In the leaflet (described in the circular as „**instruction sheet**“), the MoF summarizes the principles of joint audits and simultaneous audits with tax administrations of other countries and territories as well as to the presence of officials from other countries or territories in Germany and the presence of domestic officials abroad. Following discussions with the highest tax authorities of the German Federal States, the current principles apply in addition to the information sheet on intergovernmental administrative assistance through the exchange of information in tax matters (MoF decree letter of 29 May 2019).

The current ministerial decree replaces the instruction sheet on coordinated external tax audits with tax administrations of other countries and territories as per MoF letter of 6 January 2017 (IV B 6 - S 1315/16/10016 :002).

Part I of the current governmental instruction manual provides an overview of the other forms of administrative cooperation and their legal basis. **Part II** serves as a guide for the operational implementation of administrative cooperation.

Part I - Various forms of administrative cooperation

Other forms of administrative cooperation within the meaning of the circular (“fact sheet”) are

- the joint audit,
- the simultaneous control, and
- the presence in administrative offices and participation in administrative enquiries.

Other forms of administrative cooperation may be employed in particular

- to gain access to information that would not be accessible or would be difficult to access without administrative cooperation, or
- if it is to be expected that a purely unilateral approach could lead to double taxation or to non-taxation in both countries.

Part II - Practical implementation of administrative cooperation

Here, the MoF explains in greater detail the various aspects of administrative cooperation, such as, e. g., the initiation of a joint or simultaneous audit by the domestic tax authorities and by the foreign tax administration, the hearing (a hearing of the parties involved pursuant to section 117 (4) sentence 3 Fiscal Code is not required), information to the taxpayer in the case of joint and simultaneous audits, objections of the taxpayer, language and communication, competence and powers in the presence of foreign officials in Germany and domestic officials abroad, joint audit report in the case of joint audits.

For a joint or simultaneous audit as part of an external audit, the regulations relating to the national external audit generally apply (Sections 193 to 202 Fiscal Code and the relevant provisions of the General Tax Audit Regulations (*BpO*) - Tax Audit Code).

Following the intergovernmental agreement of a joint or simultaneous audit, a preparatory meeting is usually arranged. This can be held physically or virtually.

Taxpayers do not have the right to request the initiation of any of the other forms of administrative cooperation. Nevertheless, they may ask the relevant competent tax authorities to resort to this option.

The ministerial leaflet (information sheet) also contains **some appendices**:

Appendix 1

Model text - Notification of an audit

In these cases, the competent tax authority determines for which person a joint or simultaneous audit is to be carried out, justifies its selection and states the length of time during which the audit shall be carried out.

Appendix 2

Hearing of the taxpayer (Model text with details of the announcement and reasons for the hearing)

In the case of joint or simultaneous audits with EU Member States, a hearing of the parties involved is not required in accordance with Section 117 (4) sentence 3 Fiscal Code. For attendance outside of a joint or simultaneous audit and in the case of a joint or simultaneous audit and in the case of a joint or simultaneous audit with third countries, however, a hearing of the parties involved is required (section 117e (2) sentence 3 Fiscal Code). The party concerned is given the opportunity to comment on the intended exchange of information and to raise any objections.

Appendix 3

Model text: Notification of the taxpayer in the case of joint or simultaneous audits

The German taxpayer to whom the joint or simultaneous audit relates will generally be informed in writing (model text of administrative letter) immediately by the central liaison office of the joint or simultaneous audit as soon as the other EU Member State or the central liaison office has given its consent.

In the case of a joint or simultaneous audit, the taxpayer must not be informed if the interests of third parties, the tax authorities or the other EU Member State in not providing the information outweigh the interests of the person concerned.

Appendix 4

Issuing a joint audit report together with the other state

The findings on which agreement has been reached in a joint audit must be documented in a jointly agreed audit report. In the case of joint audits with third countries, the findings should be included in a joint audit report if the other country is prepared to do so.

The MoF points out the following: The model presented is not binding in terms of structure and wording, but

shows what content is generally expected in a joint audit report. The content of a joint audit report must be supported by all participating authorities. For German first drafts, this model should generally be followed; any uncomplicated deviations in structure and wording requested by the competent authorities of the other participating countries can generally be accepted. If English has been agreed as the language in which the joint audit will be conducted the joint audit report will be drawn up in English.

Source:

Federal Ministry of Finance, circular of 15 May 2025 (IV B 3 - S 1520/00014/004/003).

Schlagwörter

information exchange, tax audit