

COVID-19 Response: Austria

GOVERNMENT MEASURES FOR BUSINESSES

Finance / Loan Schemes

Guarantees

- ▶ Working capital loans may be secured with a guarantee from the Republic of Austria amounting to 100% (SMEs) or 90% (SMEs and large enterprises) of the loan amount (federal guarantee)
- ▶ The maximum cap and term depend on the size of the company (SME or large enterprise) and maturity of the respective loan

“Bridge-Finance-Guarantees due to the Corona Virus Crisis” by Austria Wirtschaftsservicegesellschaft mbH (aws, Austrian promotional bank)

- ▶ Volume: The guarantee can be used to secure up to
 - 80% of a bridging loan of up to €1.5 million per SME (including affiliates)
 - 90% of a bridging loan of up to €27.7 million (with additional requirements for loans with a maturity beyond 31 December 2020) per SME (including affiliates)
 - 100% for a loan of up to €500,000 per SME (including affiliates)
- ▶ Provides support for liquidity shortages caused by loss of sales as a result of the COVID-19 crisis and interim financing measures (e.g., short-term adjustment of supply chains and customer relations). Funding will be provided for working capital financing (e.g., purchases of goods, personnel costs)
- ▶ Term of the bridging loan: max. five years
- ▶ Maximum cap: €40 million per group

ELIGIBILITY

- ▶ SMEs and large enterprises which comply with the conditions set out in the Ordinance of the Federal Ministry of Finance on Guidelines on Financial Measures, Federal Law Gazette II No. 143/2020 (e.g., headquarters or a permanent establishment and significant operational activity in Austria)
- ▶ Application by COFAG together with aws (SMEs), ÖHT (enterprises in the tourism and leisure industry) and OeKB (large enterprises). The respective company's commercial bank is the single point of contact
- ▶ Link: <https://www.bmf.gv.at/public/top-themen/corona-hilfspaket-faq.html#Corona-Hilfsfonds>

- ▶ Implementation basis of the scheme: the aws Directive for SMEs, with a focus on the "Bridge-Finance-Guarantees due to the Corona Virus Crisis"
- ▶ Financially sound small-scale and industrial SMEs (companies in the tourism and leisure industry and banks, credit institutions, insurance companies are excluded)
- ▶ Application by commercial bank of the company
- ▶ Links:
 - <https://www.aws.at/aws-garantie/ueberbrueckungsgarantie/>
 - <https://www.aws.at/aws-garantie/ueberbrueckungsgarantie/ergaenzende-downloads/>

WHEN?

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ELIGIBILITY

WHEN?

Finance / Loan Schemes

Loans for the tourism and leisure industry by the Federal Ministry of Agriculture, Regions and Tourism and Österreichische Hotel- und Tourismusbank (ÖHT)

- ▶ Volume: €1 billion
- ▶ Federal guarantee can be used to secure
 - 100% of a bridging loan of ≤ €500,000, maximum term of five years, interest rate cap commercial bank: three month-Euribor +75bps capped with 0% p.a. within the first two years
 - 90% of a bridging loan of ≤ €4,400,000, maximum term of five years, interest rate cap commercial bank: 1%
 - 80% of a bridging loan of ≤ €500,000, maximum term of three years, guaranteed interest rate: 2%
 - 80% of a bridging loan of €500,000 – €1,500,000, maximum term of five years, guaranteed interest rate: 2%

- ▶ SMEs in the tourism and leisure industry, which are expecting a 15% decline in sales compared to the same period of the previous year due to the COVID-19 crisis
- ▶ Company must be a member of the Chamber of Commerce (*Wirtschaftskammer*)
- ▶ Application by the commercial bank of the company
- ▶ Link: <https://www.oeht.at/produkte/coronavirus-massnahmenpaket-fuer-den-tourismus/>

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Federal Ministry of Finance and Austrian Control Bank (*Österreichische Kontrollbank, OeKB*)

- ▶ Total volume: €3 billion
- ▶ Export companies can apply for a credit line of 10% (large companies) or 15% (small and medium-sized companies) of their export sales; federal guarantee ratio of 50% – 70% of these loans;
- ▶ Maximum limit per company group: €60 million
- ▶ Term: two years (option for extension)

- ▶ Large, medium and small companies with existing export activity and at least 25% value added in Austria which have been economically healthy until the COVID-19 outbreak
- ▶ Application in collaboration with commercial bank of the respective export company
- ▶ Link: <https://www.oekb.at/export-services/sonder-krr-covid-hilfe.html>

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Finance / Loan Schemes

Bridge Finance Guarantees from the Federal Ministry of Finance / COFAG for large enterprises financed by funds from the CAF, administered OeKB

- ▶ Volume: The guarantee can be used to secure up to 90% from the loan
- ▶ Maximum limit of the loan: depends on the actual liquidity needs of the respective company and is capped with
 - Twice the company's annual wage bill
 - 25 % of annual turnover
 - on separate grounds: the amount needed to cover liquidity needs for the 12 months following the date on which the guaranteed financing is granted

The highest amount is used as a basis for the assessment

- ▶ Large enterprises, irrespective of whether they export, which are located and have their main operational business in Austria and were not "in difficulty" within the meaning of Sec 2 No 18 GBER on 31 December 2019
- ▶ Application in collaboration with commercial bank of the respective company
- ▶ Link: <https://www.oekb.at/export-services/faq-corona-hilfsfonds-grossunternehmen.html>

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WHEN?

Finance / Loan Schemes

Measures by Austrian provinces

- ▶ Vienna
 - Innovate4Vienna: Support for production and development projects (e.g., with regard to medical devices and software, protective equipment, etc)
 - Chamber of Commerce Vienna and City of Vienna: Guarantee of up to 80% for bridging loans
- ▶ Burgenland
 - Hardship fund: fixed cost grants, grants for rent for micro enterprises
 - Guarantees for working capital loans for SMEs
 - Micro loans
- ▶ Styria Support measures for micro enterprises and SMES with the following programs: “Erfolgs!Kurs”, “Familien!Freundlich”
- ▶ Lower Austria: Guarantees of 80% for working capital loans of up to €500,000
- ▶ Salzburg:
 - Guarantees of 80% for loans of up to €500,000
 - Rent reduction for business premises in the city of Salzburg
- ▶ Tirol: non repayable interest rate subsidy in the amount of 1,5% for follow-up financing for existing aws or ÖHT guarantees

▶ Link: <https://investinaustria.at/de/blog/2020/04/corona-hilfsmassnahmen-bundeslaender.php>

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WHEN?

Tax

Tax exempt grants

- ▶ With retroactive effect from 1 March 2020, the following grants are tax exempt:
 1. Grants paid by the COVID-19-crisis management fund (e.g., payments in connection with short-time work)
 2. Grants paid by the Hardship Fund under the Hardship Fund Act
 3. Grants paid by the Corona crisis fund
 4. Other comparable grants paid by the federal states, municipalities and statutory interest representations that are made for coping with the COVID-19 crisis

Everyone who receives these grants

1 March 2020

Elimination of the sparkling wine tax

Anyone liable to pay relevant tax

1 July 2020

Introduction of the possibility of degressive depreciation

- ▶ As an alternative to straight-line depreciation - for certain assets acquired or manufactured after 30 June 2020. If the taxpayer choose degressive depreciation, the rate of depreciation may be freely chosen within a maximum limit of 30%; this rate must be continued unchanged

Anyone liable to pay relevant tax

Assets acquired or manufactured after 30 June 2020

Accelerated straight-line depreciation for buildings acquired or constructed after 30 June 2020.

- ▶ In the first year to a maximum of three times of the respective percentage of the acquisition or production costs in accordance with § 8 (1) EStG (7.5% or 4.5%), in the following year to a maximum of twice this percentage (5% or 3%), and from the second following year onwards the depreciation is calculated in accordance with § 8 (1) EStG (2.5% or 1.5%)

Anyone liable to pay relevant tax

Buildings acquired or constructed after 30 June 2020

Reduced VAT rate of 5%

- ▶ For gastronomy, accommodation, culture and publications

Anyone liable to pay relevant tax

From 1 July 2020 to 1 January 2021

Income tax

- ▶ Maximum income tax rate of 55% extended by five years until 2025

Anyone liable to pay relevant tax

25 July 2020

COVID-19 Response: Austria

| GOVERNMENT MEASURES FOR BUSINESSES | ELIGIBILITY | WHEN? |
|---|--|---|
| Tax | | |
| Tax easements — new rules: | <p>The taxpayer must have analyzed whether it is affected by a liquidity shortage due to the COVID-19 virus infection and must be able to demonstrate this to the tax authorities. However, the tax office assumes that this condition is fulfilled if the taxpayer files the respective application</p> | 13 March 2020 |
| <ul style="list-style-type: none"> ▶ Tax prepayments and tax payments can be postponed in an unusually informal manner (in particular, by e-mail) ▶ Any taxpayer, who credibly demonstrates a liquidity shortage specifically due to a COVID-19 virus infection, can apply for a reduction or non-assessment regarding advance payments of income or corporate income tax (including interest) ▶ Concerning tax collection, deferrals and payment in instalments as well as a non-assessment of deferral interest may be requested. Moreover, affected taxpayers may apply for a reduction or non-assessment of late payment surcharges ▶ In the case of deferred terms available applied for or maintained, credits can still be repaid in full. During the COVID-19 crisis, the credit balance does not have to be used to pay off due tax debts ▶ Tax deferrals and payment facilities granted after 15 March 2020 are extended by law until 15 January 2021. Furthermore, no deferral interest is to be imposed for the period between 15 March 2020 and 15 January 2021 | | 25 July 2020 |
| Stamp duty exemption | Anyone liable to pay relevant tax | Retroactively from 1 March 2020 to 31 December 2020 |
| Business expenses deduction | Anyone liable to pay relevant tax | From 30 June 2020 to 1 January 2021 |

COVID-19 Response: Austria

| GOVERNMENT MEASURES FOR BUSINESSES | ELIGIBILITY | WHEN? |
|--|-----------------------------------|--|
| Tax | | |
| Investment premium <ul style="list-style-type: none">▶ Introduction of an investment premium, by which certain investments are subsidised by 7% or 14% between 1 August 2020 and 28 February 2021. The subsidy does not constitute taxable business income | Anyone liable to pay relevant tax | From 1 August 2020 to 28 February 2021 |
| Loss carryback <ul style="list-style-type: none">▶ Losses from corporate income which cannot be offset in the tax assessment in 2020 can be deducted from the total amount of income prior to special expenses and extraordinary charges up to an amount of €5m in the assessment in 2019▶ Insofar as a deduction is not possible within the tax assessment 2019, it may be offset within the tax assessment 2018 under certain conditions. The loss carryback is also available to corporations | Anyone liable to pay relevant tax | 25 July 2020 |

COVID-19 Response: Austria

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Employment

| | | |
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| <ul style="list-style-type: none"> ▶ Increase in the tax-free vouchers that employers can grant to their employees for meals from €4.40 to €8 per working day or from €1.10 to €2 for vouchers for groceries | <p>All parties concerned</p> | <p>Wage payment periods ending after 30 June 2020</p> |
| <ul style="list-style-type: none"> ▶ The Social Security for the Self-Employed (<i>Sozialversicherung der Selbständigen</i>, SVS) provides the following supports to all SVS-insured people who expect financial losses due to COVID-19 or who are affected by illness or quarantine: deferral of contributions or agreement on instalments, reduction of the provisional contribution base as well as full or partial non-determination of interests for late payment. The reduction of the provisional contribution base may be requested by means of an online application form ▶ Likewise, the Austrian Health Insurance (<i>Österreichische Gesundheitskasse</i>, ÖGK) provides support to affected employers, such as: no late notices for due contributions, automatic deferral if contributions are not paid, only partially paid or not paid in due time; payment in instalments, no collection measures, no insolvency applications | <ul style="list-style-type: none"> ▶ All SVS-insured people who expect financial losses due to COVID-19 or who are affected by illness or quarantine ▶ Affected employers | <p>18 March 2020</p> |
| <ul style="list-style-type: none"> ▶ Allowances and bonus payments which are additionally paid to employees due to the COVID-19-crisis are tax exempt up to €3,000 in the calendar year 2020. These must be additional payments made exclusively for this purpose and have not usually been granted before. They do not increase the tax-privileged one-sixth of the year (<i>Jahressechstel</i>) and are not credited against it ▶ In case of COVID-19-related short-time work, teleworking (home office) or inability to work, both the commuter allowance and overtime surcharges will continue to be tax exempt | <p>All employees concerned</p> | <p>Calendar year 2020</p> |

COVID-19 Response: Austria (Continued)

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Grants

Hardship Fund

- ▶ Volume: €2 billion
- ▶ Funding takes the form of a non-refundable grant of €500 or €1,000 respectively and shall partially compensate lost income from self-employment and from business operations of businesses that have been significantly affected by the impact of the COVID-19 crisis
- ▶ Term: applications can be submitted until 31 December 2020

- ▶ Single member entities (Ein-Personen-Unternehmen, EPU), freelance employees and micro-enterprises as defined in Commission Recommendation 2003/361/EC of 6 May 2003
- ▶ Business must be affected by an economically significant threat from COVID-19; further eligibility criteria (e.g., founding date on or before 31 December 2019; registered office or permanent establishment in Austria, etc.) are set out in the Guidelines of the Federal Minister of Finance
- ▶ Application: by company, to be submitted to the Austrian Chamber of Commerce (*Wirtschaftskammer Österreich*) at the [following link](#)
- ▶ Link: <https://www.wko.at/service/haertefall-fonds-epu-kleinunternehmen.html>

Live

Corona Assistance Fund (*Corona-Hilfsfonds* – “CAF”): endowed with €15 billion; funds may be used flexibly for fixed cost subsidies or guarantees. The CAF is being handled by the newly established COVID-19 Federal Financing Agency (*COVID-19 Finanzierungsagentur des Bundes GmbH* – “COFAG”)

- ▶ **Fixed Cost Subsidies:** non-repayable subsidies may be granted to cover fixed costs, e.g., office rents; insurance premiums; interest expenses; contractual payment obligations necessary for operations (subject to further conditions); licence fees; payments for electricity, gas and telecommunications; subject to certain conditions: loss of value of perishable / seasonal goods and an appropriate entrepreneurial salary of max. €2,000 per month. The fixed cost subsidy amounts to 25%, 50% or 75% of the fixed costs — depending on the percentage loss of sales. Only fixed costs and loss of sales that occur between 16 March 2020 and 15 September 2020 are included. The subsidy is capped at €90 million per company and is not taxable (but reduces the deductible expenses in the fiscal year concerned)

- ▶ SMEs which (i) are located and engaged in operational business in Austria. The fixed costs must be the result of operational business in Austria; (ii) suffer a loss of revenue of at least 40% in 2020 caused by COVID-19; (iii) take all reasonable measures to reduce fixed costs and to maintain jobs in Austria; (iv) have been economically sound before the COVID-19 crisis
- ▶ Excluded: Companies from the financial and insurance sector (banks, credit institutions, insurance companies, investment firms and other finance companies subject to strict supervisory regulations)
- ▶ Application: from 20 May 2020 via the respective company's FinanzOnline account
- ▶ Link: <https://www.bmf.gv.at/public/top-themen/corona-hilfspaket-faq.html#Corona-Hilfsfonds>; <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20011180>

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COVID-19 Response: Austria (Continued)

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Other

Dividend distribution restrictions

- ▶ The ECB and the FMA (Austrian Financial Market Authority) issued an urgent recommendation to the banks they supervise to refrain from paying dividends for the past financial year
- ▶ Outside the banking sector, management may be faced with the question of whether an originally planned profit distribution based on the annual financial statements for the past financial year is still permissible to the extent planned due to current developments or a possible negative outlook respectively. The managing directors should therefore closely observe further developments in connection with the crisis and, in case of doubt, not carry out a profit distribution already decided upon in order to maintain sufficient liquidity in the company. From a shareholder's point of view, it may result from the fiduciary duty that the shareholders are temporarily obliged to waive dividend distributions
- ▶ Applicants for financial assistance programs undertake to adapt the distribution of profits to owners to their economic circumstances for the period of the financial measure: for the period from 16 March 2020 to 16 March 2021 there is a ban on dividends and profit distribution. A moderate dividend and profit distribution policy is required for the remaining period. Furthermore, no reserves are to be released to increase the balance sheet profit and the liquidity received from the financial measures is not to be used (i) to pay profit distributions, (ii) to buy back own shares and (iii) to pay bonuses to members of the management board or managing directors

Banks and companies outside the banking sector

27 March 2020

Virtual meetings

- ▶ Shareholders' meetings and meetings of corporate bodies of, amongst others, stock corporations and limited liability companies, can also be carried out without the physical presence of the participants. The Minister of Justice has issued guidance for the virtual conduct of such meetings
- ▶ In general, a virtual meeting is admissible, if the participants are connected in real time by means of an acoustic and optical two-way connection and each participant has the opportunity to speak and participate in the voting process. If some or a maximum of half of the participants do not have the technical requirements or do not want to participate in such a way, a virtual meeting can be held if such participants are connected in an acoustic way. The decision whether to hold a virtual meeting and which (connection) technology to use is to be taken by the body or member of the body convening the meeting (whereby the interests of the company as well as those of the participants have to be taken into account). The technical and organisational requirements have to be outlined when a virtual meeting shall be convened. In case of any doubt over the identity of a participant, the company is required to prove the identity in an appropriate manner
- ▶ From the text of the law, physical meetings of corporate bodies can again be held without any restrictions. Nevertheless, those who convene such meetings will be well advised, if only on the basis of their duty of care, to consider whether they should work towards (voluntary) compliance with keeping distance and wearing masks

Stock corporations and limited liability companies

Live

COVID-19 Response: Austria (Continued)

GOVERNMENT MEASURES FOR BUSINESSES

ELIGIBILITY

WHEN?

Other

Virtual meetings (continued)

- ▶ Different rules have been imposed for a general meeting of Austrian stock corporations. It is sufficient if the participants can follow the meeting in real time mode by means of an acoustic and optical connection - speaking and voting rights need to be ensured by other means (e.g., chat functions, apps). Certain limitations might be imposed like limited speaking slots or virtual meetings can be held even in case such meetings are not allowed for in the articles of association. For (i) listed companies, (ii) companies whose shares are traded via a multilateral trading system and (iii) companies with more than 50 shareholders, shareholders can be forced that their individual shareholders' rights shall be delegated to a special proxy (the stock company must select a total of four independent voting agents, at least two of whom must be lawyers or public notaries). The costs for such proxy shall be borne by the stock corporation

Stock corporations

Live

Extension of period for holding of ordinary meeting

- ▶ In 2020 the ordinary general meeting of, amongst others, a stock corporation and limited liability company must take place within the first twelve (not eight) months of the financial year of the company concerned. If the financial year corresponds to the calendar year, the ordinary general meeting must be held by the end of December (not August) 2020

Stock corporations
and limited liability
companies

Live

Extension of filing deadlines for financial statements and accounting documents

- ▶ If, as a result of the COVID-19 pandemic, it is not possible for, amongst others, stock corporations and limited liability companies, to prepare, amongst others, the annual financial statements in the first five months, this period may be extended by a maximum of four months. The same applies to other accounting documents which must be prepared within the same period of time. The annual financial statements and all documents to be filed at the same time must be filed with the Commercial Register Court twelve (not nine) months after the balance sheet date. This applies to accounting documents for which the preparation period has not already lapsed on 16 March 2020. These provisions shall expire at the end of 31 December 2020 and shall be applied for the last time to accounting documents for balance sheet dates prior to 31 August 2020. For all annual financial statements that have to be prepared on or before 16 March 2020 and filed with the Commercial Register Court after 21 March 2020, the filing period is extended by 40 days. Example: If the balance sheet date is 31 December, the annual financial statements must be submitted to the commercial register court by 30 September 2020. This period is extended by 40 days, i.e., ends on 9 November 2020

Stock corporations
and limited liability
companies

Live

COVID-19 Response: Austria (Continued)

| GOVERNMENT MEASURES FOR BUSINESSES | ELIGIBILITY | WHEN? |
|---|--|---|
| Other | | |
| <ul style="list-style-type: none">▶ Duty to file for insolvency proceedings extended from 60-days to 120-days if insolvency (illiquidity or over-indebtedness) is directly or indirectly caused by COVID-19▶ Further measures possible | All companies – unless (i) insolvency is not caused by effects of COVID-19; (ii) or the company does not seriously pursue a promising attempt to rescue its business | Doubled duty to file period applicable from 22 March 2020 (but arguably also applicable for duty to file periods already running at this date) – there is no end date |