

URL: <http://mobile.deloitte-tax-news.de/german-tax-legal-news/atad-implementation-law-to-enter-into-force-after-finally-approved-by-both-chambers-of-the-german-parliament.html>

 25.06.2021

German Tax and Legal News

ATAD Implementation Law to enter into force after finally approved by both chambers of the German parliament

Anti-hybrid rules to become effective retroactively as from 1 January 2020.

On 25 June 2021, Germany's upper house of parliament approved the "ATAD implementation law" to implement the EU anti-tax avoidance directive (including provisions of [ATAD I](#) and [ATAD II](#)) into domestic German tax law. The final version of the ATAD implementation law does not contain any changes from the version that was approved by the lower house of parliament on 21 May 2021 (see [GTLN dated 25 May 2021](#)). The approval of the upper house marks the end of a more than 18-month journey to implement the ATAD rules into German law since the first draft was published on 10 December 2019 (see [GTLN dated 12 December 2019](#) and [GTLN dated 23 December 2019](#)).

The law now must be signed by the president and published in the federal gazette, which is a simple formality that should take place within the next few days. The ATAD rules will be implemented with retroactive effect as from 1 January 2020, as intended from the beginning.

The ATAD implementation law also includes changes to the exit tax rules (mainly for individuals and not included in the ATAD) and the controlled foreign company rules (to bring the rules in line with the ATAD requirements). In addition, the ATAD implementation law contains an extension of the 2020 tax return filing deadlines, as a response to the current COVID-19 environment.

The 1 January 2020 retroactive effective date for the anti-hybrid rules is causing concern for taxpayers and their advisors. Even if there is a legal obligation for the German government to implement these rules as from 1 January 2020, the more than one and a half year delay in the actual implementation is resulting in legal uncertainties. In addition, the European Commission is closely monitoring Germany's delay in implementing the ATAD into domestic law, and even sent a reasoned opinion to Germany on 10 June 2021 for failure to communicate its compliance with all required national measures to fully implement the ATAD measures.

Diese Mandanteninformation enthält ausschließlich allgemeine Informationen, die nicht geeignet sind, den besonderen Umständen eines Einzelfalles gerecht zu werden. Sie hat nicht den Sinn, Grundlage für wirtschaftliche oder sonstige Entscheidungen jedweder Art zu sein. Sie stellt keine Beratung, Auskunft oder ein rechtsverbindliches Angebot dar und ist auch nicht geeignet, eine persönliche Beratung zu ersetzen. Sollte jemand Entscheidungen jedweder Art auf Inhalte dieser Mandanteninformation oder Teile davon stützen, handelt dieser ausschließlich auf eigenes Risiko. Deloitte GmbH übernimmt keinerlei Garantie oder Gewährleistung noch haftet sie in irgendeiner anderen Weise für den Inhalt dieser Mandanteninformation. Aus diesem Grunde empfehlen wir stets, eine persönliche Beratung einzuholen.

This client information exclusively contains general information not suitable for addressing the particular circumstances of any individual case. Its purpose is not to be used as a basis for commercial decisions or decisions of any other kind. This client information does neither constitute any advice nor any legally binding information or offer and shall not be deemed suitable for substituting personal advice under any circumstances. Should you base decisions of any kind on the contents of this client information or extracts therefrom, you act solely at your own risk. Deloitte GmbH will not assume any guarantee nor warranty and will not be liable in any other form for the content of this client information. Therefore, we always recommend to obtain personal advice.