



Get ready for 2024

Introduction & Agenda

Speakers



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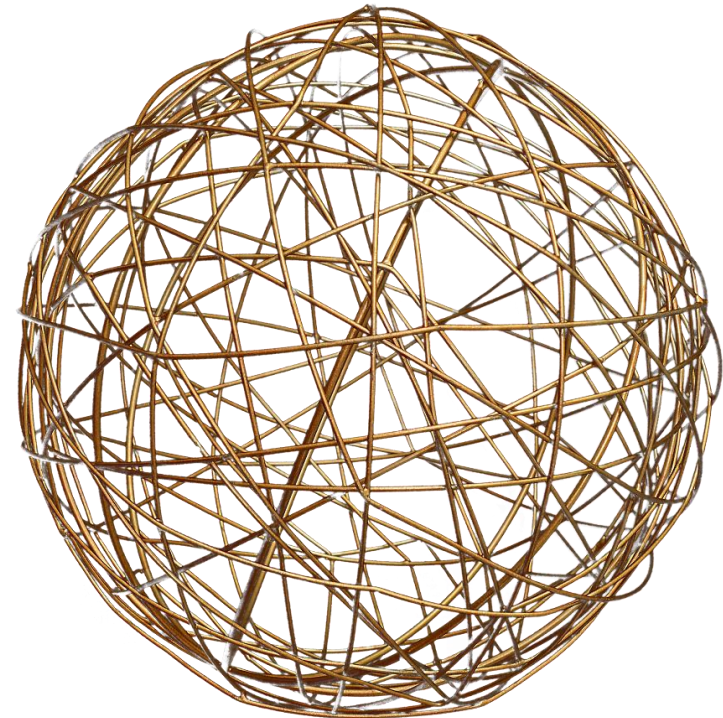


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Agenda

1. Overview of the main contents of the following legal acts:
 - Act on the Modernization of Partnership Law (MoPeG),
 - EU Foreign Subsidies Regulation (FSR),
 - Whistleblower Protection Act,
 - Future Financing Act
2. Supply Chain Due Diligence Act
3. Implementation of the global minimum tax



An overview of some new legal regulations for companies

MoPeG | Foreign Subsidies Regulation | Whistleblower Protection Act | Financing for the Future Act



Act to Modernise the Law on Civil-Law Partnerships

Partnership Law Modernization Act - MoPeG



Key data

- **Status:** adopted on June 24, 2021
- **Entry into force:** January 1, 2024 (initially planned for 2023)
- **Transitional provisions:** partly; e.g. for civil-law partnerships already entered in the land register, entry is only mandatory in the event of a disposition; the same applies for civil-law partnerships that are shareholders; however, transitional provisions do not apply to contesting of resolutions in commercial partnerships



Partnership register; eGbR

- Introduction of a new partnership register in which the partners of **civil-law partnerships (GbR)** can, but are not required to, register their partnership
- The registered GbR (**eGbR**) acquires legal capacity, at the latest upon registration; deletion from the register is only possible in case of liquidation
- **Mandatory entry:** entry in the register is required before a right is entered for the GbR in other registers (land register, list of shareholders, share register)
- Register is kept **by the courts** and its functioning is based on the commercial register



Legal capacity of the GbR

- Legal recognition of the **legal capacity** of a GbR
- GbR with legal capacity will be the regular GbR form in future; the GbR itself becomes the **asset owner**, not its partners
- **Transformation:** in future the eGbR can participate in transformation processes according to the German Transformation Act (UmwG)

Status change

- Identity-preserving change between different forms of partnerships and commercial partnerships; process is first introduced by MoPeG



Changes in relation to commercial partnerships

- In future also open to **liberal professions**, but subject to professional regulations (e.g. permissible for lawyers)
- **Adoption of resolutions: nullity of a resolutions** only if the content of the resolution violates mandatory statutory law or has been declared null and void by a judgment based on an action for rescission; **voidability of a resolution** in the event of a violation of the articles of association or non-mandatory statutory law

Your contact

Act on the Modernization of Partnership Law (MoPeG)



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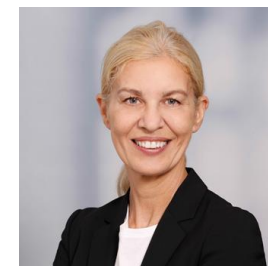
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A low-angle photograph of a classical statue of Lady Justice. She is depicted with her head tilted upwards, wearing a crown. In her right hand, she holds a pair of scales of justice, and in her left hand, she holds a sword. The background is a dramatic sky with soft, colorful clouds in shades of blue, orange, and yellow, suggesting a sunset or sunrise. A semi-transparent dark grey horizontal band is overlaid across the middle of the image, containing the title text.

EU Regulation 2022/2560 on Foreign Subsidies Distorting the Internal Market

Foreign Subsidies Regulation - FSR

Foreign Subsidies Regulation

Overview



Key data

- **Status:** adopted on December 14, 2022
- **Entry into force:** January 12, 2023
- **Transitional period:** Provisions apply since July 12, 2023, notification requirements since October 12, 2023
- **Objective:** To regulate subsidies from non-EU countries for companies operating in the EU that could have a distorting effect on the internal market



Use cases

- **Mergers:** Mergers, acquisition of control over a company, JVs (thresholds: EUR 500 million EU turnover for one party and a total of 50 million in grants in 3 years)
- **Public procurement procedures:** Participants are put in a position to submit a tender that is unfairly advantageous in relation to the construction works, supplies or services in question (thresholds: contract value of more than EUR 250 million and a total grant of more than EUR 4 million per non-EU country in 3 years)



Obligation to register and ex officio examination

- If companies discover that they have received **financial contributions** from non-EU countries, the merger or participation in the procurement procedure must be notified to the Commission
- The term "financial benefit" is **not conclusively defined** and is very broad, so that standard market transactions can also fall under the FSR
- **Market investigation:** Commission can take action itself and obtain information from various sources



Focus and effect of the review

- Examination of whether financial contributions constitute a non-EU country subsidy and **distort competition**
- **Balancing test:** If there is a non-EU country subsidy, the Commission can further examine whether any positive effects outweigh the negative effects
- Prohibition of execution during the review; procurement procedure can continue
- Commission may impose **conditions** or **prohibit** transaction or award in the procurement procedure

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EU Foreign Subsidies Regulation ("FSR")



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Act for Better Protection of Whistleblowers

Whistleblower Protection Act - HinSchG

Whistleblower Protection Act

Overview



Key data

- **Status:** adopted on May 12, 2023
- **Entry into force:** July 2, 2023
- **Background:** Implementation of the EU Whistleblower Directive (deadline expired in 2021)
- **Objective:** Protection of whistleblowers and the creation of effective and secure channels for whistleblowing in companies



Scope

- **Personal:** all persons (including external) who have obtained information about violations in their professional environment and report them
- **Material:** violations subject to criminal penalties, violations subject to fines (if regulation protects life and limb or the rights of employees), violations of other laws, including anti-money laundering, product and operational safety, environmental protection, data protection, accounting, banking supervision, taxes, competition and the internal market
- Not: internal regulations



Establishment of confidential hotlines

- **Internal:** in companies with > 50 employees, companies in the financial services sector
- **External:** by the federal government at the BMJ and optionally at the federal states, special reporting offices, including at BaFin and the BKartA
- **Confidentiality requirement**
- Whistleblowers can choose between an internal and external reporting office, but should use an internal office if the violation can be dealt with internally and they do not have to fear repressive measures



Procedure and protection of the whistleblower

- Any **reprisals** against whistleblowers who uncover irregularities in companies or authorities are **prohibited**
- Various **reporting channels** must be set up, confirmation of receipt within 7 days and verification of the report within **3 months**
- Reporting offices **investigate** tip-offs, collect information and, in the event of justified suspicion, forward the procedure to the **responsible unit in the company** or to the **responsible authority**

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Whistleblower Protection Act



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Act on the financing of future-proof investments

Financing for the Future Act - ZuFinG

Financing for the Future Act

Overview



Key data

- **Status:** adopted on November 17, 2023 (parliament) and November 24, 2023 (approval by the Federal Council)
- **Entry into force:** on December 15, 2023 or, in some cases, on January 1, 2024
- **Objectives:** Make the German financial market and **Germany more attractive** as a business location for national and international companies and investors, strengthen the **performance** of the German **capital market**, make it easier for **start-ups, growth companies and SMEs** to access the capital market and raise equity capital



Financial market law

- Easing of **listing requirements** and post-listing obligations: **Minimum capital** for IPO reduced from EUR 1.25 million to EUR 1 million
- **Special Purpose Acquisition Companies**, which serve only to enter the stock market without an operating business, are regulated for the first time
- Issuance of **registered shares** in future possible as electronic securities in accordance with the German Electronic Securities Act (eWpG), i.e. both as central register securities and as crypto securities



Corporate law

- Admission of **shares with multiple voting rights**: founders can participate in the capital market without losing control
- Facilitation of capital increases: threshold for the **exclusion of subscription rights** under stock corporation law is increased from 10 percent of the share capital to 20 percent
- Limits on **conditional capital** for mergers and for subscription rights of employees and members of the management increase from 50 and 10 percent to 60 and 20 percent respectively



Tax law

- Primarily, improved framework conditions for employee participation
- Increase in the **tax-free allowance** for employee shareholdings from EUR 1,440 to EUR 2,000 per calendar year
- Extension of the scope of application of Section 19a EStG (**deferred taxation** on transfer of a shareholding to the employee) in terms of size and timeframe beyond the SME thresholds
- Subsequent taxation after 15 years or in case of the change of employer; assumption of liability by employer

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Future Financing Act



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Supply Chain Due Diligence Act (LkSG)

Why are we talking about it?

12.11.2023, 18:16 Uhr

Audiobeitrag

> Schmutzige Kobalt-Gewinnung: Vorwürfe gegen BMW-Zulieferer

Schmutzige Kobalt-Gewinnung: Vorwürfe gegen BMW-Zulieferer

Ein Liefervertrag über Kobalt aus Marokko bringt BMW in Bedrängnis. Recherchen vor Ort deuten auf Menschenrechtsverletzungen und Umweltschäden im Umfeld einer Mine hin. Der Zulieferer weist die Vorwürfe zurück, BMW kündigt eine Prüfung an.

Von BR24 tagesschau

Sendung verpasst?

Startseite > Wirtschaft > Unternehmen > Hilfsorganisationen werfen Edeka und Rewe Verstoß gegen Lieferkettengesetz vor



Beschwerde eingereicht

Missachten Edeka und Rewe das Lieferkettengesetz?

Stand: 03.11.2023 11:24 Uhr

VW-MENSCHENRECHTSBEAUFTRAGTE

„Die Lage im Kongo ist sehr schwierig“

Die Menschenrechtsbeauftragte des Volkswagen-Konzerns steht vor gewaltigen Aufgaben. Das Lieferkettengesetz setzt die Wirtschaft unter Zugzwang. Auch andere Länder erhöhen den Druck.

Christian Müßgens
02.08.2023, 21:32 Uhr

Lieferkettengesetz

Ikea und Amazon drohen Millionenstrafen

Erste Beschwerden auf Basis des deutschen Lieferkettengesetzes schrecken die Wirtschaft auf. Mit einem neuen EU-Gesetz könnten Verstöße bald noch teurer werden.

Florian Kolf
03.05.2023 - 09:42 Uhr

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zdf heute

Macht sich VW in China die Hände schmutzig?

Vorwurf der Zwangsarbeit

Macht sich VW in China die Hände schmutzig?

von Peter Kunz und Thomas Reichart

06.12.2023 | 15:29

Gibt es Zwangsarbeit im VW-Werk Xinjiang in China? Der Konzern sieht laut einem selbst beauftragten Bericht keine Hinweise dafür. China-Forscher Zenz kritisiert den Bericht aber.

aus der taz | veranstaltungen | shop | fragen & hilfe

taz THEMEN POLITIK ÖKO GESELLSCHAFT KULTUR SPORT BERLIN NORD

Nachhaltigkeit bei Zalando

Keine saubere Kleidung

Die „Kampagne für Saubere Kleidung“ kritisiert den Online-Textilhändler Zalando: Lieferketten hätten ökologische und soziale Mängel.



Mit Füßen getreten: Ausbeutung und Umwelterstörung in der weltweiten Produktion von Schuhen und Leder

Ob Indien oder Bangladesch, ob Indonesien oder Türkei: Bei der Produktion von Schuhen und Leder kommt es weltweit zur Verletzung von Menschenrechten und Umwelterstörung. Unternehmen wie Deichmann, Zalando oder Wortmann (Tamaris) betreiben ihr Geschäft mit diesen Produkten. Damit das EU-Lieferkettengesetz daran etwas ändert, muss es stärker ausfallen als das deutsche Lieferkettengesetz!
In Ranipeth, Indien, sterben zehn Mitarbeiter einer Gerberei, als die Mauer eines Klärbeckens bricht – sie werden unter einer Schlammwawine begraben[1]. In Hazaribagh, Bangladesch, leiden Anwohner*innen von Gerbereien unter Haut-

Overview LkSG

The law has applied to companies with 3,000 or more employees since 2023 and to companies with 1,000 or more employees from 2024

Scope and topics

- Since January **2023** for companies with **>3,000 employees¹**
- From January **2024** for companies with **>1,000 employees¹**
- **Head office, main branch or registered office in Germany**
- **Head office, main branch or registered office abroad or branch office in Germany in accordance with HGB**
- Focus on compliance with human rights due diligence obligations (**social standards**) for working conditions, health and safety
- **Environmental protection** is covered if environmental risks can lead to human rights violations

Scope and implementation

- **Own business division** and direct suppliers (**Tier 1**)
- Due diligence is exercised in accordance with the **step-by-step principle**:
 - **Direct responsibility for own business unit and Tier 1**: Due diligence obligations (see below) must be implemented
 - **Indirect responsibility for Tier 2**: Due diligence obligations only need to be implemented on an "ad hoc" basis (e.g. if companies have knowledge of human rights violations)
- **Principle of reasonableness**: proof of sufficient effort required, no obligation to succeed

Fines & liability

- Coercive fines and penalties (up to **2% of annual turnover** for companies with a turnover of > € 400 million)
- **Exclusion** from the award of public contracts **for up to three years**
- **Control** by the Federal Office of Economics and Export Control (**BAFA**)
- **Liability**: A breach of the obligations arising from the law expressly does not give rise to civil liability. However, any civil liability established independently of this remains unaffected
- **Legal action options** for foreign affected parties remain basically unchanged; **new**: Affected parties can authorize German NGOs or trade unions to conduct proceedings ("special representative action")

Duties of care

1. risk management

2. responsibility

3. regular risk analyses

4. declaration of principle

5. prevention measures

6. remedial measures

7. complaints procedure


8. due diligence obligations for indirect suppliers


9. documentation & reporting


¹The number of employees includes the employees of all group companies, including subsidiaries; temporary workers are to be taken into account when calculating the number of employees of the hiring company if the period of employment exceeds six months; the law also applies to companies, regardless of their legal form, which 1) have a branch office in Germany pursuant to Section 13d of the German Commercial Code and 2) generally employ at least 3,000 (or 1,000) employees in Germany


Scope of application of the LkSG


What will directly affected companies have to prepare for in 2024?


 **Section 1 (1) sentence 3 LkSG: Thresholds for application are reduced to 1,000 employees**
→ *instead of approx. 700 companies in 2023, approx. 2900 companies will be affected in 2024*

 **For companies with 3,000 or more employees, BAFA actually wanted to verify the availability of the reports and their publication by *the deadline of June 1, 2024*; however, the BMWi and BMAS have agreed to simplify the process → The reports for 2023 and 2024 are **not due until 2025** and can be submitted *as EU sustainability reports***

 **Companies with 1,000 or more employees** will have to comply with the new regulations by January 1, 2024.

 the **responsibility** for monitoring risk management,

 have established a functioning **complaints mechanism** and

 otherwise begin *with the fulfillment of the remaining due diligence obligations*

Scope of the LkSG

What about companies that do not fall within the scope of application, e.g. due to their size (*SMEs*)?

- **De iure no obligation to fulfill the statutory due diligence obligations**, therefore
 - neither coercive measures and sanctions nor risk-based controls by BAFA
 - No reporting or accountability obligations towards BAFA
 - No direct obligation to participate in the preparation of reports by companies subject to reporting requirements
- *As (in)direct suppliers, however, there is a de facto extensive obligation to comply with the legal requirements* since the LkSG requires the *obligated companies to agree on appropriate control mechanisms and to carry out checks on their suppliers*
- **Support or cooperation** therefore e.g. with regard to the following obligations of the obligated companies:
 - Risk analysis
 - Complaints procedure
 - Reporting obligation

Current topics

What issues are companies currently most concerned with in practice?

Risk analysis

- Preparation
- Individual steps
- Concrete determination of risks
- Weighting/prioritization
- Reach



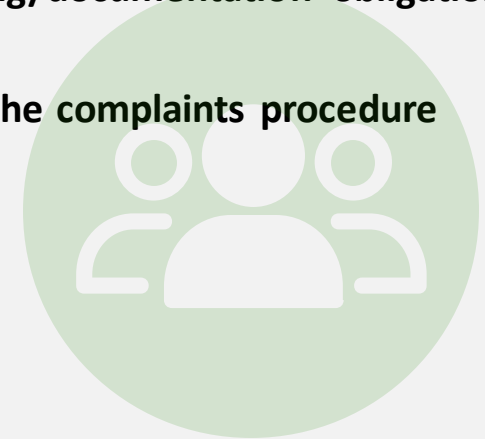
Complaints procedure

- Accessibility
- Central/decentralized
- Dealing with the complaints
- Anonymity



Human Rights Officer

- (De-)central organization/number
- Level/department
- Monitoring vs. implementation
- Reporting/documentation obligation
- Role in the complaints procedure



Your contact

Supply Chain Due Diligence Act (LkSG)



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Implementation of the global minimum tax

Pillar 2 | Stand der Gesetzgebung

Please feel free to contact our experts for explanations in English language.

Im Fokus der aktuellen Entwicklung der globalen Mindestbesteuerung liegen die unilateralen Umsetzungskonzepte und -maßnahmen. In Deutschland liegt seit dem 16. August der Regierungsentwurf für das MinBestRL-UmsG vor. Das MinBestRL-UmsG wurde nun am 10. November - mit kleineren Änderungen - durch den Bundestag verabschiedet. Im Pillar Two-Umsetzungsprojekt sind diese Entwicklungen kontinuierlich zu überwachen.

Hintergrund



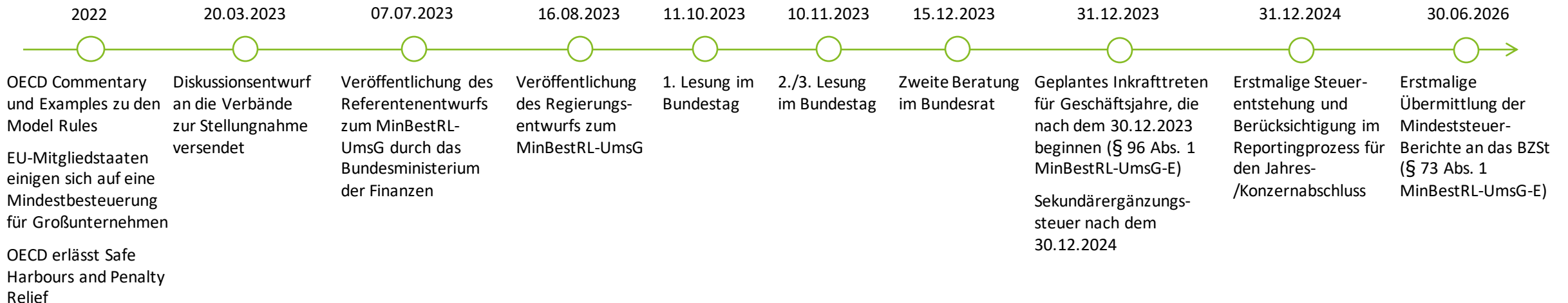
- 20.12.2021: OECD Model-Rules zur globalen Mindestbesteuerung
- 22.12.2021: EU-Richtlinienentwurf zur globalen Mindestbesteuerung
- 16.08.2023: Regierungsentwurf zum MinBestRL-UmsG
- • 10.11.2023: Verabschiedung MinBestRL-UmsG durch den Bundestag

Säule Zwei („Pillar Two“):

Globale Mindestbesteuerung i. H. v. 15 %
für multinationale Unternehmen > **750 Mio. € Umsatz**

(Durch Income Inclusion Rule („IIR“),
Undertaxed Payment Rule („UTPR“) und
für bestimmte Quellensteuern durch Subject to Tax Rule („STTR“))

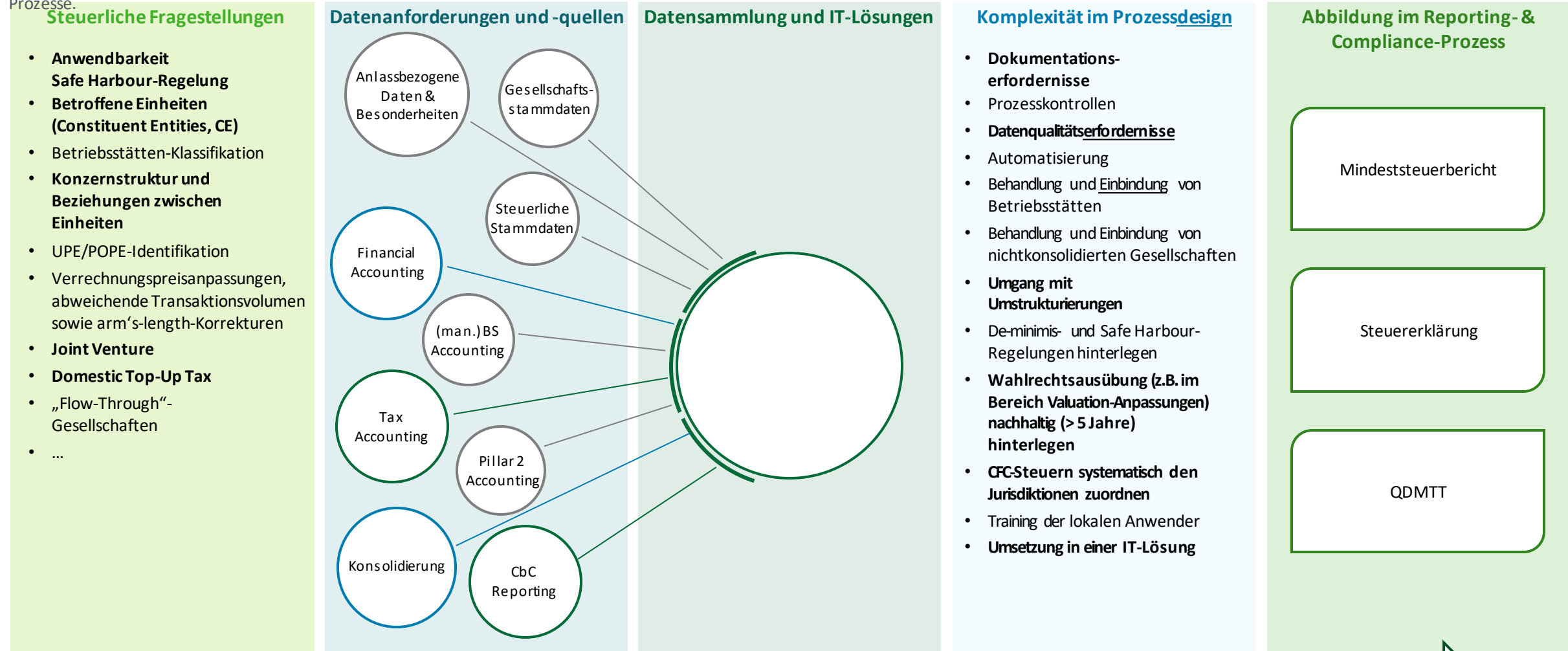
Entwicklungen und Ausblick



Pillar 2 | Vielschichtige Herausforderungen aus Pillar 2

Please feel free to contact our experts for explanations in English language.

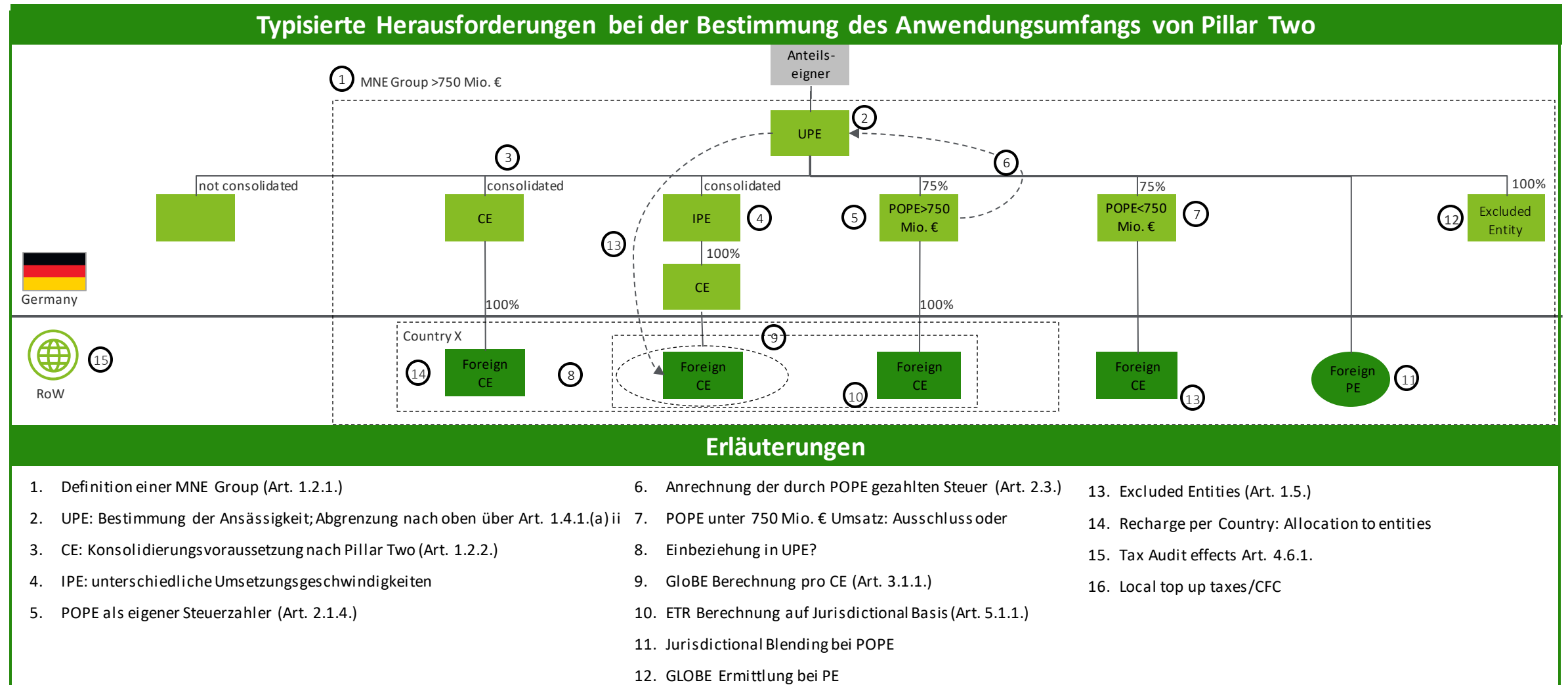
Die Analyse der aus Pillar 2 resultierenden steuerlichen Fragestellungen ist vernetzt mit jener der Datenanforderungen und -quellen und führt abschließend zur Gestaltung der komplexen erforderlichen Prozesse.



Pillar 2 | Analyse der Gruppe in Bezug auf relevante Einheiten und Besonderheiten

Please feel free to contact our experts for explanations in English language.

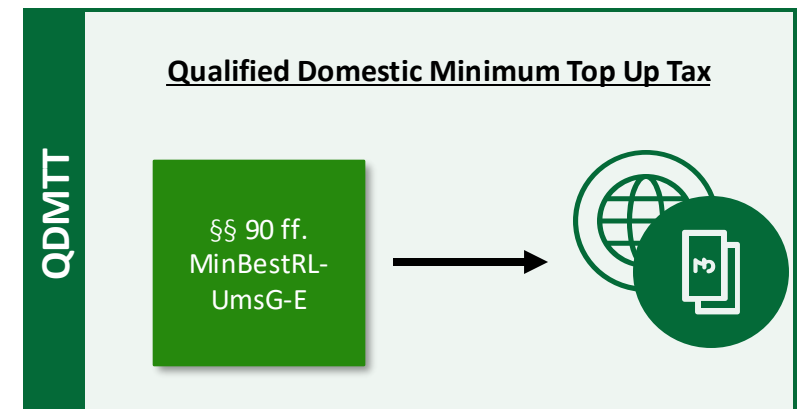
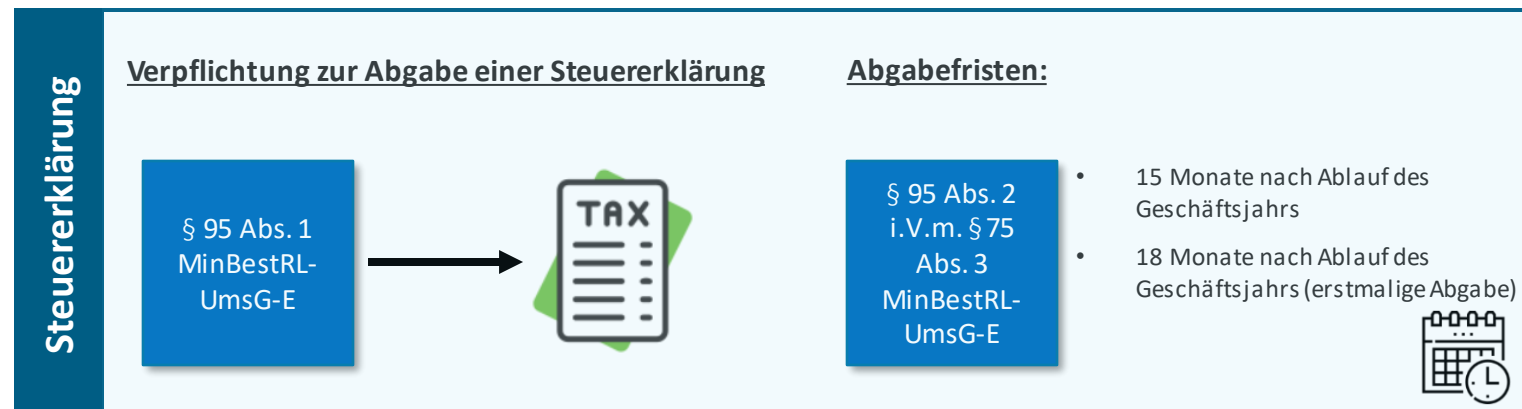
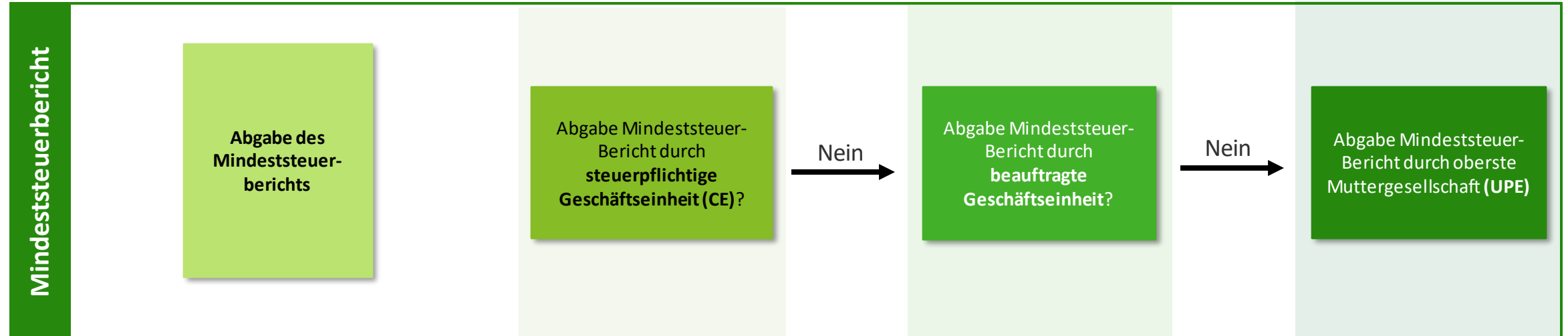
Startpunkt ist regelmäßig die Festlegung des Umfangs und der Art der rechtlichen Betroffenheit in der Gruppe. Diese basiert auf den Model Rules sowie dem aktuellen Stand des MinBestRL-UmsG. Aus unseren Erfahrungen bei vergleichbaren Projekten konnten wir zahlreiche typische Herausforderungen bei der regelbasierten Analyse des Anwendungsumfangs identifizieren.



Pillar 2 | Verpflichtung zur Abgabe GloBE Information Return und der Steuererklärungen

Please feel free to contact our experts for explanations in English language.

Bei der Entwicklung des notwendigen Outputs ist der Stand der nationalen und internationalen Umsetzung der Regelungen zu betrachten. Nach derzeitigem Stand des MinBestRL-UmsG ist grundsätzlich gemäß § 75 Abs. 1 S. 1 für jede steuerpflichtige Geschäftseinheit (CE) ein Mindeststeuer-Bericht (GIR) bei der zuständigen Steuerbehörde abzugeben. Diese Verpflichtung kann auch von anderen Gruppengesellschaften und hierbei insbesondere der obersten Muttergesellschaft (UPE) übernommen werden. Vom Gruppenträger ist darauf aufbauend eine Steuererklärung gem. § 95 Abs. 1 abzugeben. Besondere Bedeutung werden zudem die QDMTTs bekommen.



Pillar 2 | Mögliche Konsequenzen bei Verstößen gegen Compliance Verpflichtungen

Please feel free to contact our experts for explanations in English language.

Entsprechend der künftigen Verpflichtung, eine Steuererklärung gem. § 95 Abs. 1 MinBestRL-UmsG in Form einer Steueranmeldung abzugeben, bedarf es der Richtigkeit und Vollständigkeit der abgegebenen Erklärungen erhebliche Bedeutung beizumessen, da sich bei fehlerhafter oder verspäteter Abgabe Konsequenzen aus dem Steuerstrafrecht und Ordnungswidrigkeitenrecht bzw. Haftungsfälle ergeben können.

Steuerstrafrecht

§§ 369 ff. AO:

- Vorsätzlich bzw. leichtfertig begangener Fehler kann zu straf- bzw. bußgeldrechtlichen Konsequenzen führen
- Anzeigepflicht und Pflicht zur Richtigstellung nach § 153 AO wenn nachträglich Unrichtigkeit / Unvollständigkeit einer Steuererklärung mit Konsequenz der Steuerverkürzung bekannt wird

Ordnungswidrigkeitenrecht

§§ 30, 130 OWiG:

- Es droht Geldbuße bei Zuwiderhandlung gegen die Pflichten des Unternehmens durch Vertretungsberechtigte
- Die Erfüllung der steuerlichen Pflichten obliegt den gesetzlichen Vertretern des Unternehmens (§ 34 AO)

Haftung

§ 69 AO:

- Die gesetzlichen Vertreter des Unternehmens haften, soweit Ansprüche aus dem Steuerschuldverhältnis infolge vorsätzlicher oder grob fahrlässiger Verletzung der ihnen auferlegten Pflichten nicht oder nicht rechtzeitig festgesetzt oder erfüllt werden

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Implementation of the global minimum tax | Pillar 2



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Hidden Movers
Spendenaktion



Umweltbildung Foodrescue

Community Kitchen gGmbH, Munich

Hidden Mover 2023, Winner in the category Growth

The Community Kitchen Munich team is convinced that preventing food waste is one of the most effective ways to combat climate change. In Munich alone, where the initiative is based, nearly 170,000 kilograms of ready-to-eat food is thrown away every day in private households. The Foodrescue environmental education project aims to raise young people's awareness of food waste and empower them to take responsibility. In the long term, the project aims to bring the issue of food waste to the forefront of society.

More information

A video, more information and a profile of the project can be found on the Hidden Movers website: [Aktuelle Gewinnerprojekte - Hidden Movers Award \(hidden-movers.de\)](https://www.hidden-movers.de/aktuelle-gewinnerprojekte-hidden-movers-award)

Contact

- Website: [Community Kitchen München – Lebensmittelretter \(community-kitchen.com\)](https://www.community-kitchen.com)
- LinkedIn: [Community Kitchen München: Übersicht | LinkedIn](#)

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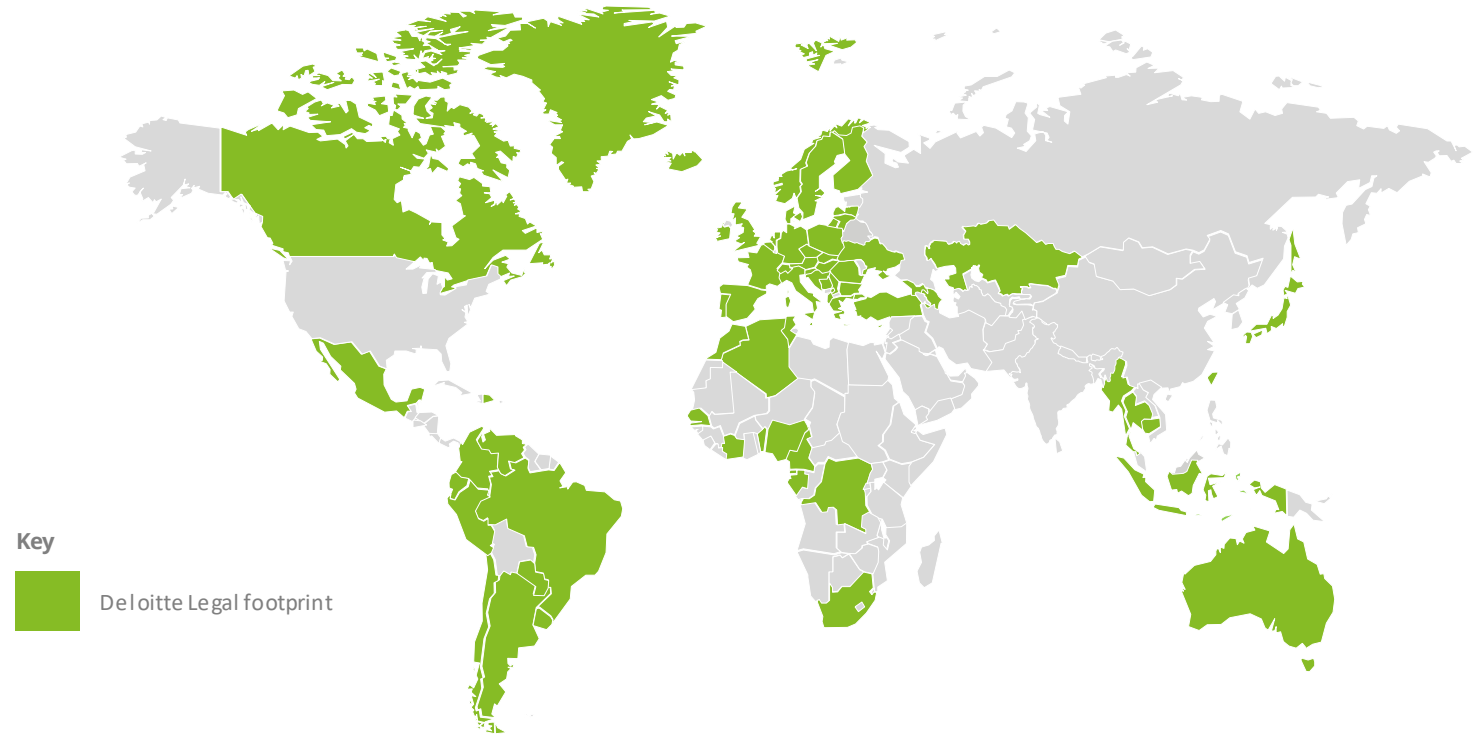
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