

# The new Austrian Homeoffice-Act – Same, same, but different

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## What does home office actually mean?

- Performance of work
- By the employee
- Using information technology
- In his private home ( = external workplace)
- Secondary residences, home of close relatives/partner
- Not: Coffee shops, parks, „co-working-spaces“, etc.

## Order? Legal claim? Matter of agreement?

- Matter of written (!) agreement
- Termination for good cause – 1 month notice period
- “Home office conditions” as part of voluntary works council agreement
- **No written agreement** -> no home office within the meaning of the law -> **no tax benefits**

## Home office agreement

### Minimum content requirements:

- Workplace
- Activity & Working Hours
- Data protection and IT-security rules, as well as rules of conduct in general
- Recording obligations
- Good causes for termination

## Work equipment and cost allocation

- Employer shall provide digital work equipment
- BYOD is possible, if the employer bears the “reasonable and necessary costs”
- Liability for technical and organizational compliance of the systems rests with employer

## Work equipment and cost allocation

- Reimbursement of costs (lump-sum) – a maximum of € 300,- per year can be paid tax-free
- Digital work equipment =/= taxable non-monetary remuneration
- Expenses for the ergonomic furnishing of the workplace at home can be claimed as income-related expenses
- Taxation benefits are limited until the end of 2023

## Employee protection and liability

- Application of the relevant provisions on employee protection, especially:
  - Austrian Employee Protection Act
  - Austrian Working Hours Act
  - Austrian Rest Period Act
- Workplace-related regulations do not apply
- Accidents (incl. commuting accidents) in temporal and causal connection with professional activity are considered as work accidents

## Employee protection and liability

- Liability of the employer for damage caused on the employee's property in the course of his professional activity
- Application of the Austrian Employee Liability Act for damages caused by the Employee during home office
- Extension of the Austrian Employee Liability Act for damages caused by the employee's housemates or pets





## Data protection

- Employer remains responsible for:
  - personal data processed
  - all other data processed
  - security of the systems in general
- Provision of properly secured digital work equipment
- Detailed guidelines if equipment should be provided by employee
- Comprehensible, practically implementable and written data protection and IT-security rules for employees

But is it worth the effort?

- Provision of equipment by employer may be more advantageous from a cost/benefit point of view
- Reduces or removes need for technical guidelines
- Requires minimal to small amendment of existing IT-security rules

Any questions?

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