

Tax Measures for Consideration of the Effects of Coronavirus

On March 19, 2020 both the German Federal Ministry of Finance and the Supreme Tax Authorities of the German Federal States have released a circular and a decree (respectively) introducing “certain tax measures to relieve the effects of the coronavirus (COVID- 19 /SARS-VoV-2)” (GZ: IV A 3 -S 0336/19/10007 :002 2020/0265898, [Steuerliche Massnahmen zur Beruecksichtigung der Auswirkungen des Coronavirus \(COVID-19/SARS-CoV-2\)](#)).

In this news alert we would like to inform you of such measures.

Circular of the German Federal Ministry of Finance

In an effort to mitigate the considerable damage to the economy already caused by the coronavirus in large parts of Germany and to mitigate the damage which is likely to ensue, the German Federal Ministry of Finance has issued a circular aimed at helping taxpayers avoid undue hardship.

In agreement with the Supreme Tax Authorities of the German Federal States, the following now applies to tax deferral applications and enforcement measures as well as to application for the adjustment of prepayments for those taxes administered by the state tax authorities on behalf of the federal government:

- Taxable persons who can show to be directly and significantly affected by the impact of the coronavirus may - until December 31, 2020 - submit applications for the deferral of taxes which are already due or which will become due until the end of the year and which are administered by the state financial authorities (Income Tax, Corporate Income Tax, Solidarity Surcharge and Value Added Tax). In addition, applications for the adjustment of prepayments on income and corporation tax may be made.
- Further, the circular states that such requests may not be refused for the reason that the taxpayer cannot prove in detail the value of the damage he has incurred. The examination of the conditions for deferrals is not to be subjected to strict requirements. As a rule, interest on deferral may be waived.
- However, Section 222 Sentences 3 and 4 German General Tax Code (*Abgabenordnung*) will remain unaffected. These provisions state that tax claims against the taxpayer may not be deferred if a third party has to pay the tax for the account of the taxpayer, in particular in cases where the tax is to be withheld and remitted (e.g. payroll tax – with the exception of lump-sum payroll tax – and

withholding tax). Thus, deferral of a tax liability is not available to payroll / withholding taxes.

- Applications for the deferral of taxes due after December 31, 2020 and applications for the adjustment of prepayments relating to periods after December 31, 2020 will have to be specifically justified.
- Where the local tax authority is informed by a taxpayer subject to enforcement proceedings or where it otherwise becomes aware, that the taxpayer is directly and not insignificantly affected, no enforcement should be executed for periods up to and including December 31, 2020. This should apply to all taxes in arrears or due by that date.
- Late payment penalties matured as of the publication of the circular until December 31, 2020, may be waived.
- It should be noted that the general principles for tax filings and payments will continue to apply to those taxpayers who are (only) indirectly affected by the coronavirus. It should be noted that the circular does not contain any guidance on what “indirectly affected” shall mean.

Decree of the Supreme Tax Authorities of the German Federal States

On March 19, 2020 the Supreme Tax Authorities of the German Federal States have released a decree in relation to the effects of coronavirus on the assessment of the trade/business tax base for the purpose of trade /business tax prepayments.

The decree states:

- Tax authorities may adjust the trade tax base for purposes of trade tax prepayments, where they become aware of a change of circumstances in the current period of assessment. This will apply, in particular, where the local tax authority is adjusting the amount of income tax or corporation tax prepayments payable.
- In this context, taxpayers who can show that they are directly and significantly affected by the coronavirus may - until December 31, 2020 - apply for a reduction of the trade / business tax assessment basis. The application is to include a description of the circumstances applicable to the taxpayer.
- Such applications may not be refused solely for the reasons that the taxpayer is not able to prove the value of the damage suffered in detail.

- Where the local tax authority issues an assessment of the trade / business tax basis, the relevant municipality will be bound by this when assessing the trade / business tax prepayments.
- Where a taxpayer is affected by the coronavirus and wishes as a result to apply for a deferral or waiver of trade / business tax, he is obliged to make his application to the responsible municipality. An application for deferral/waiver of trade / business tax can be made to the local tax authority only in the exceptional cases where the determination and collection of trade / business tax has not been transferred to the relevant municipality.

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