

GERMAN TAX MEASURES TO COUNTER THE EFFECTS OF THE CORONAVIRUS

In a joint press conference on 13 March 2020, Olaf Scholz (Federal Minister of Finance) and Peter Altmaier (Federal Minister of Economic Affairs and Energy) announced an extensive bundle of measures to support companies in the current crises. This bundle contains the following tax measures to support companies with their liquidity:

- Facilitating the grant of tax deferments;
- More straightforward adjustment of advance tax payments;
- Waiver of enforcement measures and late-payment penalties until 31 December 2020; plus
- Instruction to the General Customs Administration and the Federal Central Tax Office to accommodate the needs of the taxpayers regarding the taxes administered by them (e.g. energy tax, air transport tax, insurance tax and value added tax).

We recommend contacting the tax authorities at short notice in order to benefit from these emergency relief measures. Further tax benefits such as partial waivers of taxes are, however, currently not envisaged.

BACKGROUND

Due to the rapid spread of the coronavirus, the entire German economy is facing huge challenges. Besides drastic local restrictions to slow down the spread of the virus, the internationally intertwined German economy is also hit by the effects of the pandemic on other regions across the globe.

The German Federal Government therefore issued a bundle of measures to mitigate the expected negative cyclical development because of the coronavirus. The aim is to maintain and improve the liquidity situation of companies and businesses through fast-acting immediate measures in order to secure growth and employment.

The protective measures are based on 4 pillars:

Key issues

- The German Federal Government presented a bundle of measures to absorb the effects of the coronavirus pandemic on the economy.
- Companies can expect tax deferments amounting to billions.
- We recommend contacting the German tax authorities.

1. Making short-time allowance (*Kurzarbeitergeld*) more flexible
2. Tax measures to assist companies with their liquidity
3. A billion-euro protection shield for businesses and companies
4. Strengthening European cohesion

Since the full extent of the economic consequences of the coronavirus cannot be foreseen, the Federal Government, in consultation with the Federal States and other members of the European Union, holds out the prospect of using all available resources to consistently counteract a potential serious disturbance of the cyclical development.

TAX MEASURES IN DETAIL

The fiscal pillar of the announced package of measures concerns the facilitation of tax deferrals and adjustments of tax advances as well as restrictions on enforcement measures. In this context, companies shall be granted tax deferrals which, in the view of the politicians, might add up to billions of Euro. The necessary coordination between the Federal Government and the governments of the Federal States has already taken place and the Federal Ministry of Finance has published the measures that will also be published in the Federal Tax Gazette. The Federal States have published identically worded decrees concerning envisaged trade tax measures.

These measures include, in particular:

1. The granting of tax deferrals by the local tax authorities is facilitated. The tax authorities can defer taxes where their collection at due date would result in considerable hardship for the debtor. The tax authorities have been instructed not to impose strict requirements in this respect.
2. Advance payments can be adjusted more straightforward. As soon as it becomes obvious that the income of the taxpayer is likely to be lower than expected in the current year, the tax prepayments should be reduced quickly and easily.
3. Enforcement measures (e.g. seizure of bank accounts) or late-payment penalties are waived until 31 December 2020 as long as the debtor of a due tax payment is directly affected by the effects of the coronavirus.
4. Regarding taxes administered by the General Customs Administration (e.g. energy tax and air transport tax), the General Customs Administration has been instructed to meet the taxpayers' needs in an appropriate manner. The same applies to the Federal Central Tax Office which should proceed accordingly in its responsibility for insurance tax and value added tax.

RECOMMENDATIONS FOR ACTION

The proposed measures do not require formal legislative procedures and have been implemented immediately by the tax administration. In order to benefit from these measures, it is necessary to contact the tax authorities. It should be borne in mind that the tax authorities are also affected by the current remote working restrictions, and that it can be expected that there will be an overwhelming volume of taxpayer's applications to be dealt with.

The identically worded decrees published by the tax authorities of the Federal States provide that the measures should initially only benefit taxpayers who are demonstrably affected directly and not only insignificantly. For those indirectly affected, the general tax principles remain applicable.

For a deferment of claims arising from the tax debt relationship, an application by the tax debtor to the tax authorities is required. The taxpayer must normally provide detailed reasons for the request and explain the circumstances that make the tax payment so difficult. In addition, any loss or damage resulting in considerable hardship must be precisely quantified and proven in each individual case. According to the identically worded decrees, applications for deferment in connection with the coronavirus should, as an exception, not be rejected because the damages incurred cannot be quantified in detail in terms of value. Nevertheless, we recommend that the financial impact of the virus on the company be documented as precisely as possible and that this documentation be attached to the application for a tax deferment in order to make it clearer for the tax authorities to examine the application and thus speed up the procedure. This, in particular, helps with the difficult distinction in individual cases as to whether a taxpayer is considered as directly or only indirectly affected. In general, the tax authorities point out that there are no strict requirements to be met when reviewing the conditions for deferments.

In principle, in case of a tax deferment interest at a rate of 6% p.a. applies. However, such interest may be waived in whole or in part if it were unreasonable to charge it in the individual case. The identically worded decrees provide that deferment interest may, in general, be waived in connection with the coronavirus pandemic. However, this should be specifically requested in the application for a tax deferment.

Such facilitated deferments can be granted for income tax, corporate income tax and value added tax. However, the general tax principles remain applicable for wage tax and withholding tax.

The adjustment of advance tax payments requires an application of the taxpayer with an explanation of the reasons for the changed profit situation. Due to the announcement, the tax authorities are requested to apply a favourable view when deciding on applications with a coronavirus-related reasoning. The corresponding application can be submitted electronically to the tax authorities. Applications for the determination of the trade tax base assessment amount for the purpose of advance payments can be submitted either to the municipalities or to the competent tax office. The Bavarian State Office for Taxes has published a [model application form](#) (in German) that can be used to apply for the measures mentioned above.

However, the relief for tax deferments and adjustments of advance payments will not apply to taxes due after 31 December 2020. In this respect, special justification requirements apply.

Finally, the tax offices have been instructed to refrain from enforcement measures against such tax debtors who are directly and not insignificantly effected by the coronavirus until 31 December 2020 for taxes due by this date or on which the tax debtor already is behind.

Late-payment penalties accrued between 19 March 2020 and 31 December 2020 will be waived.

In order to benefit from these facilitations of the enforcement procedure, we recommend contacting the tax authorities proactively.

CONTACTS



Dr. Felix Mühlhäuser
Partner

T +49 69 7199 1051
E felix.muehlhaeuser
@cliffordchance.com



Dr. Stefan Behrens
Partner

T +49 69 7199 1666
E stefan.behrens
@cliffordchance.com



Olaf Mertgen
Partner

T +49 69 7199 1691
E olaf.mertgen
@cliffordchance.com



Steffen Waadt
Associate

T +49 69 7199 1637
E steffen.waadt
@cliffordchance.com

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Clifford Chance, Mainzer Landstraße 46,
60325 Frankfurt am Main

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