

Tax & Legal Newsflash

Tax Authorities release tax measures to combat the effects of coronavirus

This morning both the Federal Ministry of Finance and the Supreme Tax Authorities of the Federal States (“the Länder”) released a circular and a decree (respectively) introducing tax measures to combat the effects of the coronavirus (COVID-19 /SARS-CoV-2). In this Newsflash we would like to inform you of the measures.

Ministry of Finance Circular

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

In agreement with the Supreme Tax Authorities of the Länder, 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 be shown to be directly and significantly affected by the impact of the coronavirus may - until 31 December 2020 - submit applications for the deferral of those taxes already due or becoming due up to that date, which are administered by the state financial authorities on behalf of the federal government, (income tax, corporation tax, solidarity surcharge and VAT). In addition, applications for the adjustment of prepayments on income and corporation tax may be made.
- The decree further states that such requests may not be refused on the ground that the taxpayer cannot prove in detail the value of the damage incurred. The examination of the conditions for deferrals is not to be subjected to strict requirements. As a rule, interest on deferral can be waived.
- However, Section 222 Sentences 3 and 4 General Tax Code 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). A deferral of a tax liability claim is not available to persons liable to pay where that person has withheld tax or collected amounts containing tax.
- Applications for the deferral of taxes due after 31 December 2020 and applications for the adjustment of prepayments relating to periods after 31 December 2020 will have to be specifically justified.
- Where the tax office 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 31 December 2020. This should



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apply to all taxes in arrears or due by that date. It applies to all taxes covered by this circular.

- Where in the period from the publication of this circular to 31 December 2020, late payment penalties are charged, these are to be waived.

In contrast the general principles will continue to apply to those who are indirectly affected by the coronavirus. It should be noted that the circular does not contain any guidance on what “indirectly affected” means.

Decree of the Supreme Tax Authorities of the Länder

This morning the Supreme Tax Authorities of the Länder also released a degree in relation to the effects of coronavirus in relation to the assessment of the trade tax base for the purpose of trade tax prepayments. The decree states:

- Tax offices can 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 tax office is adjusting the amount of income tax or corporation tax prepayments payable.
- Against this background, taxpayers who can show that they are directly and significantly affected by the coronavirus may - until 31 December 2020 - apply for a reduction of the trade tax base for trade tax prepayment purposes. The application is to include a description of the circumstances applicable to the taxpayer.
- These applications may not be refused purely on the grounds that the taxpayer is not able to prove the value of the damage suffered in detail.
- Where the tax office issues an assessment of the trade tax base for trade tax prepayment purposes, the relevant municipality will be bound by this when assessing the trade tax prepayments.
- Where a taxpayer is affected by the coronavirus and wishes as a result to apply for a deferral or waiver of trade tax, he must make his application to the responsible municipality. An application for deferral/waiver of trade tax is only to be made to the local tax office where the determination and collection of trade tax has not been transferred to the municipality.

Source:

1. Federal Ministry of Finance circular (GZ : IV A 3 - S 0336/19/10007 :002 - DOC 2020/0265898) published on 19 March 2020.
2. Decree of the Supreme Tax Authorities of the Länder on the trade tax measures to combat the effects of the Coronavirus (COVID19/SARS-CoV-2) published on 19 March 2020

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