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By PwC Deutschland | 26. Mai 2020

Seizure of Corona emergency aid is inadmissible

The seizure of a bank account by the tax office, where the account also includes amounts received as Corona emergency aid, is unlawful. This was decided by the Münster Tax Court in a procedure for interim relief on 13 May 2020 (Az. 1 V 1286/20 AO), published in a press release on 19 May 2020.

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The applicant operates a repair service and generates trading income. Due to the effects of the Corona Pandemic, the applicant was not able to accept repair orders from customers. On 27 March 2020, in order to keep his business operating, he applied to the state of North Rhine-Westphalia for immediate Corona aid available to micro-entrepreneurs and self-employed. The local government granted aid in the amount of EUR 9,000 on the same day and transferred the money to his bank account. As this account was encumbered with a seizure and collection order issued by the tax office in November 2019 for outstanding VAT debts from 2017 to 2019, the bank refused to pay out the Corona emergency aid. The applicant therefore requested the temporary suspension of the seizure of the bank account within the scope of an interlocutory injunction.

The 1st Senate of the Münster Tax Court granted the application and ordered the tax office to suspend the attachment of the current account until 27 June 2020 and to revoke the attachment and collection order. There was a need for the legal protection of a court application because Corona emergency aid was not covered by civil law provisions on protection against seizures. Furthermore, the enforcement and maintenance of the attachment and confiscation order put the applicant at an unreasonable disadvantage. An attachment of the current account credit balance, which had been increased by the Corona emergency aid, interfered with the purpose for which the aid had been granted. The Corona emergency aid was provided exclusively to alleviate the financial difficulties of the affected business arising in connection with the COVID 19 Pandemic. It was not designed to satisfy creditors' claims which arose before 1 March 2020 and thus did not have the purpose of satisfying tax office claims arising before 1 March 2020. Since the Corona emergency aid had been granted for a period of three months by the decision dated 27 March 2020, enforcement was to be suspended until 27 June 2020.

Schlagwörter

Coronavirus (COVID-19), Seizure orders