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By PwC Deutschland | 23. Oktober 2023

Bundesrat with comments on the proposed Growth Opportunity Act

At its sitting on 20 October 2023 the Bundesrat (Federal Council/upper house) expressed its opinion on the Growth Opportunities Act initiated by the German government, and which envisages extensive changes in tax law.

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Many of the numerous amendments proposed by the Bundesrat to the **government draft of the Growth Opportunities Act** relate to the new climate protection investment premium, which in its view is too administratively complex and bureaucratic. It criticizes the fact that the federal states have not been involved in examining the organizational and automation requirements of the practice. Since the investment premium is an extra-tax subsidy, it should be administered and financed as a grant by the federal government, for example by the Federal Office of Economics and Export Control.

In their detailed comments, the states express fundamental support for the plan to establish better environmental conditions for more growth, investment, and innovation, including for climate protection. At the same time, however, they are concerned with the financial burden on state and local government budgets, which will have to bear almost two-thirds of the proposed tax measures. The Bundesrat cautions the negative effects on the trade tax revenue of cities and municipalities, this would certainly be too much to expect with regard to their difficult financial situation.

Digital enforcement

Many of the planned tax incentives are not compatible, or only partially compatible, with the IT systems of the tax administration. Digitalized enforcement is therefore not possible - in part even permanently and long term, the Bundesrat says. Moreover, the state representatives fear increased workload for tax office staff, a lengthening of legal proceedings and higher bureaucratic costs.

Electricity tax cut

In addition to numerous specific proposals for improvements to the individual articles of the draft bill, the Bundesrat has made several requests for additional relief measures. Among other things, it calls for a reduction of the electricity price tax to the European minimum - and in a further step, a reform of the state-induced price components in the energy sector to be implemented in the short term.

Investments in climate protection (investment premium)

A key project is the introduction of an investment premium to promote the transformation of the economy. This is aimed at improving local site conditions with tax incentives for investments in clean and climate-friendly technologies. Specifically, the German government intends to subsidize 15 percent of the expenditure for energy efficiency measures by companies as direct financial grant.

Research funding

The proposed Growth Opportunities Act is also intended to provide an additional tax incentive for more research. In addition to personnel costs, costs of materials are in future also eligible for the grant. In addition, the maximum assessment basis is to be increased to three times its current level, thus enabling higher subsidies. In addition, the subsidy rate for small and medium-sized enterprises should be increased from 25 to 35 percent.

Modernization of tax law

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Overall, the tax system should be simplified and modernized through changes in key areas. The German government intends to achieve this in particular by temporarily reintroducing declining-balance depreciation for movable assets and temporarily introducing declining-balance depreciation for residential buildings at a rate of six percent from October 1, 2023, improving the utilization of tax losses, introducing an interest rate cap, a reporting requirement for national tax structures and raising the limit for low-value assets to 1,000 euros, as well as introducing a statutory regulation on the mandatory use of electronic invoices between domestic companies.

Next steps

The comments of the Bundesrat were forwarded to the federal government, which has drafted a response and submitted both documents to the ongoing deliberations in the Bundestag. No later than three weeks after the parliament has passed the law, it will be placed on the agenda of the Federal States‘ Chamber (Länder), whose approval is required.

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