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By PwC Deutschland | 31. Januar 2026

Late filing penalty and the corona pandemic crisis

With the extension of the tax return deadlines for the 2019 tax period, the legislator took into account the difficulties caused by the coronavirus pandemic. However, if taxpayers missed these deadlines as well late filing penalties had to be imposed. There was no room to exercise discretion, the Supreme Tax Court said in a most recently published decision.

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Background

At the time, the Federal Ministry of Finance (MoF) and the highest tax authorities of the federal states had decided on various tax relief measures to ease the burden for taxpayers who had been directly and significantly affected by the economic impact of the coronavirus pandemic. The intention was to improve the liquidity of companies that have fallen into financial difficulties as a result of the coronavirus crisis.

In view of the continuing exceptional situation, the declaration deadlines for tax returns listed in Section 149 (3) of the General Tax Code (GTC) and the interest-free grace periods (Section 233a (2) GTC) for 2020 were extended several times.

In anticipation of **this statutory regulation**, the Federal and State Tax Authorities had issued various instructions to that effect.

Case in dispute

Since the plaintiff, who had consulted a tax advisor, did not submit his trade tax return for 2019 until 28 December 2021, the tax office imposed a late filing penalty for the four months since September 2021 (filing deadline was 31 August 2021). The plaintiff argued that the tax office had acted in an arbitrary manner. Based on the FAQ Corona Taxes of the MoF such a penalty would not have been mandatory. The lower tax court dismissed the action brought by the plaintiff.

Decision

The Supreme Tax Court confirmed the opinion of the former tax court and rejected the appeal of the plaintiff. The plaintiff was legally obliged to submit his trade tax return by 31 August 2021. Therefore, and regardless of fault, a late filing penalty was to be imposed in accordance with Section 152 (2) No. 1 GTC. There is no exception under Section 152 (3) GTC which would have allowed for a discretionary decision according to Section 152 (1) GTC. The plaintiff cannot infer from the Corona FAQs that for 2019 a late filing penalty should have been based solely on a discretionary decision.

The decision addresses **two interesting aspects**. **First**, it clarifies that, for the 2019 assessment period, a late filing penalty can only be imposed once the extended filing deadline specified in Section 149 (3) GTC has expired, which was as of 31 August 2021. To face the fact: “Without a missed deadline – no delay.”
- **Second**, it addresses the nature of FAQs: Although they were introduced in 2013 in the course of the Act on the Promotion of Electronic Administration and the Amendment of Other Regulations, they are not binding for the administration. They are no administrative regulation because the MoF does not intend to establish binding rules here. Rather, the FAQs provide information for citizens. There is no protection of legitimate expectations nor can the reference for equity relief be understood to mean that, in exceptional cases, the assessment of late filing penalty in Section 152 (2) GTC should not apply.

The Supreme Tax Court went on to summarize that the filing deadlines were extended by law and not by administrative decision. Therefore, late filing penalties had to be imposed. Nothing to the contrary can be

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inferred from the Corona FAQs. The Corona FAQs have no direct binding effect on the tax office, nor do they lead to a self-commitment on the part of the administration in such a way that the late filing penalty would be discretionary.

Source:

Supreme Tax Court, decision of 30 July 2025 (X R 7/23), published on 29 January 2026.

Schlagwörter

filing deadlines, penalty