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By PwC Deutschland | 14 April 2020

Further tax measures to assist people affected by the Corona crisis - new Federal Ministry of Finance circular

In coordination with the Supreme Tax Authorities of the federal states ("Länder"), the Federal Ministry of Finance published further tax measures to assist those affected by the Corona crisis in its circular dated 9 April 2020.

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The tax relief applies to certain support measures which are being implemented in the period from 1 March 2020 up until 31 December 2020 at the latest. These include, inter alia:

Simplified proof of donations

Rules allowing a simplified procedure for proof of donation are being introduced, under which a cash deposit receipt or the booking confirmation from a bank will be sufficient. For donations made via a third party account, donation receipts issued by the recipient for the respective donor will be sufficient as proof.

Donation campaigns and measures for tax-privileged corporations

Under general rules non-profit organisations are not allowed to apply funds for tax privileged purposes, which are not supported by their Articles of Association. Where a body uses the funds it receives under a special action to help people affected by the Corona crisis, it will be able to apply the tax concession even though the use of the funds is not covered by its Articles. The same will apply to bodies which are restricted regionally by their Articles. In such cases it will not be necessary to amend the Articles.This could apply in situations where, for example, a sports club or music club collects donations for people affected by the Corona crisis. When promoting charitable purposes, the corporation must itself examine and document the need of the person or institution supported. In certain circumstances the requisite need will be assumed, for example, where shopping help is provided to the elderly or to people with underlying health conditions or living in quarantine. It will also suffice if the donations are forwarded either to a tax-privileged corporation or to a domestic legal entity governed under public law to help those affected by the Corona crisis.

In addition to the use of the requested donations described above, exceptionally the tax concession will not be affected if the relevant body uses other funds available to it, which are not subject to any other binding restrictions, to support those affected by the Corona crisis (e.g. purchasing services) without amending the Articles of Association. The same applies to the provision of personnel and premises.

Donations from business assets

Donations provided as a sponsoring measure to help those affected by the Corona crisis will be deductible as operating expenses. Expenses of the sponsoring taxpayer are operating expenses if the sponsor seeks economic advantages for his company which could ensue from securing or increasing his business reputation. The same should apply to donations to business partners. This means: If the taxpayer provides business partners affected by the Corona crisis with gratuitous benefits from his business assets on a reasonable scale for the purpose of maintaining business relations, the expenses should be fully deductible as business expenses.

Wage donation and Supervisory Board remuneration

If an employee waives the part of the payment of his salary or parts of an accumulated credit balance in favour of a payment by the employer to a donation account of an institution entitled to receive donations within the meaning of Section 10b (1), Sentence 2 Income Tax Act, the relevant part of the salary may be

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disregarded when determining the amount taxable. The same should apply to Supervisory Board remuneration.

Assistance in coping with the Corona crisis

If tax-privileged corporations make personnel, premises, material resources or other services available for consideration in areas that are necessary for coping with the effects of the corona crisis (e.g. to hospitals, old people's and nursing homes), then there should be no objection if these activities are allocated to the special-purpose business unit (“Zweckbetrieb”) for both income tax and VAT purposes. This applies regardless of what tax-privileged purpose the respective corporation follows in accordance with its Articles of Association.

Gift tax

If the donations are gifts, tax exemptions in accordance with Section 13 Inheritance and Gift Tax Act can be granted if the relevant conditions are met.

Source:

Federal Ministry of Finance circular dated 9 April 2020, - IV C 4 -S 2223/19/10003 :003

Keywords

Coronavirus (COVID-19), donations, tax relief