By PwC Deutschland | 08 February 2026

Tax treatment of repayment of coronavirus emergency aid if taxable income is calculated on cash basis

The coronavirus emergency aid (with financial support from the federal government) for the months of April, May, and June 2020 is taxable as business income. According to the decision of the Supreme Tax Court, the original approval notice cannot be amended with retroactive effect if the subsidy had to be repaid later.

Background (in brief)

Taxpayers not required to keep books may compute their taxable income on a cash basis according to Section 4 (3) Income Tax Act (ITA). That is what the plaintiff, who worked as a self-employed individual, did.

In 2020, he received emergency coronavirus aid which was taxed as business income. In 2023 he had to repay most of the financial support. He believed that the emergency coronavirus aid which had been granted “subject to repayment” should be treated like a loan and not as business income. He also argued that the disputed assessment could be amended in accordance with Section 175 (1) No. 2 of the General Tax Code (AO) with retroactive effect for the year the subsidy was paid to him. The tax office, on the other hand, referred to the accrual principle applicable to the determination of profits in accordance with Section 4 (3) ITA. The tax court of first instance dismissed the action brought by the plaintiff.

Decision

The Supreme Tax Court also considered the coronavirus emergency aid, which had been received in the year in dispute, to be business income since it was prompted by the business activity and had increased the plaintiff's earning capacity. There was also no loan involved here because the repayment obligation was not fixed from the outset but depended on circumstances beyond his control.

The economic correlation between the coronavirus emergency aid received and the plaintiff's self-employed activity is evident because both the eligibility for the Corona aid and its scope depended on his business activity and his operating figures (turnover, operating expenses).

The coronavirus emergency aid is a liquidity or expense subsidy from public funds. Repayment was only envisaged in the event that the initial entitlement, calculated on the basis of forecast figures, exceeded the final entitlement based on the actual figures determined retrospectively. In this case, there was neither a loan nor a situation comparable to a loan.

Finally, the Supreme Tax Court clarified that there was no room for an amendment of the earlier tax assessment with retroactive effect within the meaning of Section 175 (1) sentence 1 no. 2 General Tax Code. An amendment pursuant to that regulation has retroactive effect for tax purposes insofar as taxation must henceforth be based on the amended facts rather than those previously established.

Although the original decision to grant the subsidy was later in part withdrawn ex tunc on the day the Corona aid was granted it does not change the facts of the case that are legally relevant from a tax point of view because the existence of a valid legal basis (in this case, the original approval notice) is not a prerequisite for business-related income;

the actual business reason is sufficient.

In summary, the Supreme Tac Court concluded that the financial burden resulting from the repayment only arises in the subsequent year, i. e. the year in which the funds are paid back. It must therefore only be taken into account as a business expense or negative income at that point in time. There is no need to offset the repayment against the emergency aid previously received.

Source:

Supreme Tax Court, decision of 16 December 2025 (VIII R 4/25), published on 5 February 2026.

Keywords

Coronavirus (COVID-19), repayment