



Special information

Tax measures related to corona virus

Content of the special information:

Since 13 March 2020, the German government has decided on various fiscal aid measures to cushion the effects of the corona virus.

Most recently, the draft law on the Second Corona Tax Assistance Act was published (Deutscher Bundestag Drucksache 19/20058 of 16 June 2020)

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¹ It can be assumed that the BMF letter on the blanket loss carryback and thus this measure will be repealed as soon as the draft law has been transposed into current law.



1. Tax measures to take account of the effects of the corona virus (COVID-19/SARS-CoV-2)

On 19 March 2020, both the BMF (Federal Ministry of Finance) letter (IV A 3 - S 0336/19/10007 :002) on the "Tax measures to take account of the effects of the coronavirus (COVID-19/SARS-CoV-2) and the identical decree of the supreme tax authorities of the Länder on the trade tax measures to take account of the effects of the coronavirus (COVID-19/SARS-CoV-2) were published.

On the basis of these BMF letters, the tax offices are expressly required to be generous with the following applications by the taxpayer and not to impose strict requirements.

The measures apply to taxes due by 31 December 2020. They apply exclusively to taxable persons directly and significantly affected by the Corona crisis.

1.1 Deferral of income tax, corporation tax, trade tax and value added tax

Basics:

Tax claims may be deferred, in whole or in part, if collection at maturity would cause considerable hardship to the taxpayer and the claim does not appear to be endangered by the deferral. This means that the tax debt is not due at the legally prescribed time, but correspondingly later.

Competent authority:

- ✓ Tax office: income tax, corporate income tax and turnover tax
- ✓ Municipalities: trade tax

Revocation of SEPA direct debit mandate

If a SEPA Direct Debit Mandate has been issued for tax payments, it must be revoked. The revocation may be limited to the tax to be deferred or the period concerned, so that the SEPA Direct Debit Mandate issued remains valid in all other respects.

For advance payments of VAT, the revocation can be applied for electronically within the framework of the transmission of the advance return for VAT.

Interest:

In principle, the tax debt is subject to interest for the period of deferral (0.5 % of the tax debt for each full month of deferral).

This interest may be waived in whole or in part if its collection would be inequitable in the circumstances of the individual case. The extent to which the tax authorities will also be generous in this case depends on the individual case.



Exclusion of deferments:

The deferral of tax deductions (wage tax, capital gains tax) is not possible with reference to the BMF letter issued. The deferral must be clarified directly with the responsible tax office.

1.2 Reduction of advance tax payments

Advance payments are regularly made on income tax (ESt), corporation tax (KSt) and trade tax (GewSt).

The reduction of the current tax prepayments can be applied for informally at the tax office and is based on the expected income. In particularly serious individual cases, the advance payments can be reduced to EUR 0.00.

The tax authorities are required to process the reduction applications quickly and easily if the taxpayer states that his income is expected to be lower in the current year.

Responsibilities:

Tax office: income tax, corporate income tax and turnover tax

Tax office: trade tax amount for the purpose of advance payments.

This trade tax assessment amount is communicated to the municipalities by official channels and the adjustment of the previous trade tax advance payments is carried out.

Review of the reduction request:

For the sake of completeness, we would like to point out that taxpayers must inform the tax office without being asked if the earnings situation has unexpectedly improved in the event of a reduction in advance tax payments. The previously reduced advance payments would therefore have to be increased again.

If it becomes apparent at the end of the financial year that the reduction application will result in additional tax payments, the advance payments must be adjusted again (increase).



1.3 Flat-rate reduction of advance payments already made for 2019²

On 23 April 2020, the grand coalition agreed that foreseeable losses in 2020 can be offset against tax prepayments in 2019 upon request. A letter from the Federal Ministry of Finance dated 24 April 2020 (IV C 8 - S 2225/20/10003) is available for this purpose.

Taxpayers directly and significantly negatively affected by the Corona crisis who have not yet been assessed for 2019 may apply for a reduction of the fixed advance payments in 2019 up to 15 months after the end of the assessment year (31 March 2021).

Due to the current situation, it is very difficult to forecast and present the losses that would normally be part of such an application. Therefore, applications for reduction of advance payments for the year 2019 should be simplified for all parties involved.

For this purpose, there is now the possibility of a lump-sum loss carryback, which is calculated on the basis of the income estimated in the notice of advance payment 2019.

If the reduction is applied for on the basis of a higher loss carry-back, the sum of the negative income in 2020 must be proven in detail.

a) Requirements

Application / eligible applicants:

The use of the loss carryback from 2020 calculated on a flat-rate basis is only possible on application. The application must be submitted in writing or electronically to the responsible tax office. Only persons subject to income or corporation tax who in 2020 received income from

- Agriculture and forestry,
- Income from commercial operations,
- income from self-employment or
- Income from renting and leasing

It is harmless if, in addition to the aforementioned income, other types of income are generated (e.g. income from employment or income from capital assets).

Negative consternation:

The taxpayer must be directly and not inconsiderably negatively affected by the Corona crisis. This can be assumed if the advance payments for 2020 have been reduced to EUR 0 and the taxpayer has given assurance that he expects a not inconsiderable negative amount of income for the advance payment date 2020 due to the corona crisis.

² It can be assumed that the BMF letter on the blanket loss carryback and thus this measure will be repealed as soon as the draft law has been transposed into current law.



b) Settlement of the flat-rate loss carryback

Amount of the loss carryback determined at a flat rate:

- 15 % of the balance of the
- income and/or the income from renting and leasing, which are not subject
- have been used to fix advance payments for 2019.

It is to be deducted up to a total amount of EUR 1 million or, in the case of collective investment, EUR 2 million. The 2019 advance payments are to be recalculated taking into account the loss carryback determined on a flat-rate basis.

Tax assessment 2019:

A loss carryback from 2020 can only be taken into account in the assessment of 2019 after the assessment of 2020 has been carried out. This will result in an additional payment in the assessment for 2019.

The subsequent payment in 2019 attributable to the above-mentioned loss carryback shall, upon request, be deferred without interest until the announcement of the tax assessment notice 2020, subject to the determination of interest and subject to revocation, if the taxpayer can still assume at the time of filing the tax return in 2019 that he will receive a not inconsiderable negative amount of income for the assessment period 2020.

Tax assessment 2020:

- If the tax return for 2020 does indeed result in a loss carryback, the previously determined and deferred subsequent payment for 2019 will no longer apply.
- If the 2020 tax return does not result in a loss carry-back, the previously deferred subsequent payment for 2019 must be paid within one month of the announcement of the 2020 tax assessment. The same applies if the loss carryback has been completely waived in accordance with Section 10d (1) sentence 5 EstG.
- If the actual loss carryback is lower than the previously considered flat-rate loss carryback, the remaining additional payment for 2019 is to be paid within one month of the announcement of the amended tax assessment notice 2019.

Note:

Admittedly, the generation of other types of income - apart from income from agriculture and forestry, commercial operations and renting and leasing - is harmless for the determination of the flat-rate loss carryback. Nevertheless, losses can only be carried back in the context of the 2020 tax returns if the sum of all income is negative.



Waiver of enforcement measures and remission of late payment penalties

Taxes that are assessed and due are collected by enforcement in the event of non-payment. Late payment of taxes is subject to a late payment surcharge by law.

According to the BMF letter, enforcement measures (e.g. account seizures) or default surcharges are to be waived until 31 December 2020 as long as the debtor of a tax payment due is directly affected by the effects of the corona virus. In its press release No. 050 of March 17, 2020, the Bavarian State Ministry of Finance and the Homeland also announced that no enforcement measures will be taken until the end of this year and that the statutory surcharges for late payment will be waived.

Applications for deferral of enforcement of tax deductions (wage tax, capital gains tax) are, according to current knowledge, virtually hopeless.

2. Submission of tax returns

If pandemic-related problems arise in submitting tax returns on time, the Bavarian tax authorities should be generous and as unbureaucratic as possible when dealing with applications for an extension of the deadline. This was announced by the Bavarian State Ministry of Finance in its press release No. 050 of 17 March 2020.

In accordance with press release No. 064 of 26 March 2020 issued by the Bavarian Finance Minister Albert Füracker, the deadline for submitting tax returns in 2018 has been extended upon request (retroactively from 1 March 2020) to 31 May 2020 at the latest. This applies to taxpayers who receive tax advice.

The request must be duly substantiated. The Minister of Finance has promised that all applications will be processed quickly and without bureaucracy.

Lateness surcharges shall not be levied for the period of extension of the deadline. Lateness surcharges already fixed for this period shall be waived upon request.

3. Refund of the special advance payment of value added tax

With press release No. 057 dated 23 March 2020, the Bavarian State Ministry of Finance announced that companies which are directly and not inconsiderably affected by the Corona crisis can, upon application, have the special advance payment of value added tax already made refunded. The already granted permanent extension of the deadline remains unaffected by this.

The simplest and fastest way to apply for the reduction of the special VAT prepayment 2020 is to submit a corrected declaration.



4. First Corona Tax Assistance Act

4.1 Reduction of the sales tax rate for food from 19 % to 7 % in the gastronomy

The rate of VAT will be reduced from 19% to 7% for restaurant and catering services - with the exception of the supply of beverages - provided after 30 June 2020 and before 1 July 2021.³ In this regard, we refer to our special information on the reduction of tax rates in the restaurant and catering industry.

4.2 Transitional regulation of § 2b UstG in § 27 paragraph 22 UStG

Due to urgent work by legal entities under public law, in particular local authorities, to cope with the COVID-19 pandemic, the transitional period was extended until 31 December 2022.

4.3 Tax retroactive period § 9 sentence 3 and § 20 sub-section 6 sentences 1 and 3 UmwStG

The retroactive tax period was temporarily extended from 8 to 12 months.

5. Second Corona Tax Assistance Act - draft law Status 16 June 2020

The draft law was published by the Federal Ministry of Finance on 6 June 2020 under the reference BMF IV A 2 - S 1910/20/10062:002).

In the current version of the draft law on the Second Corona Emergency Aid Act (Deutscher Bundestag Drucksache 19/20058 dated 16.06.2020), further measures are listed in comparison to the above-mentioned publication of the BMF.

Note in advance:

In addition to the tax aid measures, the draft law also provides for an adjustment of the limitation period for serious cases of tax evasion (§ 376 AO) from 10 years to 25 years as well as the introduction of a new § 375a AO.

Besides a new § 375a AO is introduced. This is to regulate that in future in cases of tax evasion unlawfully attained earnings- despite expiration of the tax claim - the collection of these earnings can be ordered after § 73 of the penal code. The provision covers not only the evaded taxes but also the interest to the extent that it is attributable to the evaded taxes. In § 375a AO it is regulated that in cases of tax evasion tax claims which have not yet been fulfilled but are already statute-barred can be ordered the confiscation of unlawfully obtained deed earnings according to § 73 of the German Criminal Code.

³ **NOTE:**

As part of the German government's economic stimulus package of 3 June 2020 (see point 5), the reduced tax rate was reduced from 7 % to 5 %. This applies for the period from 01.07.2020 to 31.12.2020



Measure	Remark / Note
Temporary reduction of VAT rates from 19 % to 16 % and from 7 % to 5 % from 1 July 2020 to 31 December 2020	At this point we refer to our special information on the temporary reduction of the VAT rate on our website.
Maturity of the import turnover tax	The due date shall be postponed to the 26th day of the second month following importation.
Child bonus of 300 Euro	A one-off child bonus of 300 euros per child for whom child benefit is due is paid. This bonus is offset against the child allowance in the same way as the child benefit.
Amount of relief for single parents	The amount of relief will be increased from the current EUR 1,908 to EUR 4,008. This increase applies to the years 2020 and 2021
Increase in tax loss carryback	For the years 2020 and 2021, the loss carryback is increased to EUR 5 million (EUR 10 million in the case of collective investment). The increase to EUR 5 million applies accordingly to corporation tax
Financially effective use of the loss carryback for the 2019 investment	Upon application, a lump sum of 30% of the total amount of income - excluding income from employment - of the 2019 assessment period will be deducted as loss carryback from 2020 (provisional loss carryback). The precondition is that the advance tax payments 2020 have already been reduced to EUR 0.00. The deduction of a higher amount than 30 % is possible if the higher probable loss carryback can be proven. Maximum EUR 5.0 million (EUR 10 million in the case of collective investment) For the assessment year 2020 a tax return is mandatory.



Measure	Remark / Note
Adjustment of advance payments 2019	<p>On application, the total amount of income - excluding income from employment - used as the basis for calculating the advance payments for the 2019 assessment period is reduced by a flat rate of 30%. This is subject to the condition that the advance payments in 2020 have been reduced to EUR 0.00.</p> <p>A higher amount than 30 % is possible if the higher probable loss carryback can be demonstrated.</p> <p>Maximum EUR 5.0 million (EUR 10 million in the case of collective investment)</p> <p>At present, it can be assumed that the BMF letter on the flat-rate loss carryback, which is still valid, will be repealed, as the possibility of flat-rate loss carryback is covered by the new draft law.</p>
Declining balance depreciation 25 %, up to 2,5 times the straight-line depreciation	The declining balance method of depreciation is possible for movable fixed assets that were acquired or manufactured in 2020 and 2021.
Taxation of the private use of company cars that do not emit carbon dioxide.	The maximum amount of the gross list price is increased from 40,000 Euro to 60,000 Euro.
Extension of the reinvestment period of § 6b EStG	The period is extended by one year if the reserve pursuant to § 6b EStG would have to be released at the end of the fiscal year ending after February 28, 2020 and before January 1, 2021.
Extension of the periods ending in 2020 according to § 7g EStG	In the case of investment deductions claimed after 31 December 2016 and before 1 January 2018 in accordance with section 7g EStG, the investment period ends only at the end of the fourth financial year following the financial year in which the deduction was made.
Reduction factor according to § 35 EStG	The reduction factor for the crediting of trade tax will be raised from 3.8 to 4.0 from the assessment period 2020.
Measure	Remark / Note
Trade tax Add-on allowance	The additional tax allowance under Section 8 No. 1 GewStG will be increased from EUR 100,000 to EUR 200,000 from the 2020 survey period.



Tax research allowance	The maximum assessment base of the tax research allowance will be increased to EUR 4.0 million in the period 2020 to 2025.
Change in the distribution of turnover tax (§ 1 FAG)	



The above statements are only a non-binding compilation according to the current status. No liability is assumed for the correctness and completeness. We would be pleased to support you in checking and, if necessary, implementing the above measures in your company.

Your familiar contact persons are at your disposal regarding these matters.
In addition, you will find the contact persons who have dealt with the above topics in particular.



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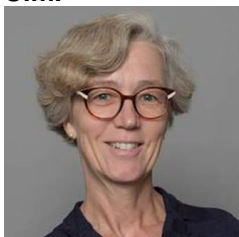
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