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COVID-19 Tax and legal measures

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Starting in March 2020, the Federal Council announced comprehensive economic programs to cushion the economic consequences of the ongoing spread of COVID-19. These programs aim to preserve jobs and safeguard salaries, buffer financial implications for the self-employed, avoid liquidity bottlenecks at companies and prevent insolvencies.

When counting all of the resolutions taken so far, the economic support measures at federal level amount to about CHF 60 billion in total, and include immediate support in the form of loans, contributions and delayed payments and the temporary waiving of default interest on late payments of social security insurance and different types of taxes. All cantons have also already communicated support measures relating to cantonal and communal taxes. Some cantons accept that companies claim COVID-19-related provisions under certain circumstances in their 2019 financial statements, provided these are of a limited nature. The canton of Zug is considering, among other measures, temporarily reducing the cantonal tax multiplier from 82% to 78% for the years 2021 – 2023.

Federal liquidity aid for companies

COVID bridging loans

The Federal Council released an emergency ordinance governing COVID bridging loans worth CHF 40 billion for SMEs. These loans are guaranteed and have a term of 5 – 7 years. For the purposes of this measure, SMEs are considered to be sole proprietorships, partnerships and legal entities domiciled in Switzerland whose turnover in 2019 did not exceed CHF 500 million. Qualifying companies can apply directly to their usual bank for a bridging loan over the coming six months. The process is quick and unbureaucratic, allowing companies to borrow an amount of up to 10% of their (2019) turnover, capped at CHF 500.000. The Confederation acts as guarantor for the entire volume of these loans. The interest rate is 0% but is amended annually in line with market developments. Loans for between CHF 500,000 and CHF 20 million are available after a basic credit check. The Confederation guarantees 85% of the volume of such loans. Interest charged is 0.5%. An individual credit check will be performed for companies applying for a bridging loan of more than CHF 20 million. No dividends may be distributed for the duration of the loan agreement, nor may companies pass on funds to shareholders or foreign group companies (click here for further restrictions). Violations will be sanctioned with fines of up to CHF 100,000 and penal law provisions may apply. Under civil law, these bridging loans are loan agreements but from the perspective of financial restructuring law they do not have the characteristics of debt capital. In evaluating whether to apply for a bridging loan, companies should also consider legal and fiscal implication, especially in the event that the affected business becomes unable to repay the loan.

COVID bridging loans for start-ups

For start-ups, the federal government together with some cantons provide a surety program for bank loans. The federal government guarantees 65% and the domiciling canton 35% of bank loans up to a maximum of CHF 1 million, but not exceeding one-third of the company's ongoing expenses for 2019. Start-ups whose domiciling canton participates in this surety program may apply for such a guaranteed loan on this website by 31 August 2020 at the latest. This website also shows the other criteria which a start-up has to fulfill in order to be eligible for the surety program or whether the domiciling canton even participates in the surety program.

Other measures introduced by the Federal Council to preserve companies' liquidity include, but are not limited to, the following:

Liquidity buffer in the area of tax

Companies have the option to extend the payment deadlines for federal taxes and duties. Formally, the due dates for these taxes and duties remain in place. Therefore, companies wishing to settle tax liabilities after their due date must submit a corresponding application to the tax authorities – in practice, a fairly informal procedure. The form of notification can vary depending on the type of tax in question.

In addition, late payment interest for VAT (read more here), customs duties, mineral oil tax, heavy vehicle charges, beer and alcohol tax, tobacco tax and automobile tax has been cut to 0% for the period from 20 March to 31 December 2020. The same regulation applies to direct federal tax from 1 March to 31 December 2020 if the taxes become due in this period. Late payment charges apply as normal to direct federal tax receivables that become due for payment prior to this period. Withholding tax and stamp duty do not appear to benefit from these advantages.

Postponing payments of social security contributions

Companies affected by the crisis can apply to postpone payment of social security contributions (AHV/IV/EO/ALV) temporarily and interest-free. Should social security contributions be late for the period between 21 March and 30 June 2020, no interest on arrears will be levied.
The compensation funds will not levy interest on partially late payments agreed upon until 20 September 2020. Companies also have the possibility to adjust the amount of regular AHV/IV/EO/ALV contributions paid in advance if the total payroll has fallen significantly. The same applies for self-employed workers whose turnover has plummeted in the COVID-19 crisis. In addition, the compensation funds will not send reminders for unpaid contributions until 30 June 2020.

Another measure with a similar effect is the Federal Council's resolution that employers may temporarily use their accumulated employer contribution reserves to pay employer contributions to occupational pension funds.

Cantonal tax measures

Due to the current situation, many cantons have automatically extended the regular deadline for submission of the 2019 tax return for individuals and in some cases also for legal entities. Thereafter, the ordinary application for an extension remains applicable. In addition, some cantons provide for an extension to the application deadline for tariff adjustments for source tax. Individual cantons (such as Aargau, Thurgau, Valais or Zug) will accept an extraordinary provision for cantonal tax purposes in the 2019 financial statements for losses that will occur in 2020 due to COVID-19 up to a certain amount or under certain circumstances. In the Canton of Thurgau the provisions may also be claimed upon submitting the tax return or, if need be, within the revision procedure.

Furthermore, it is possible to apply for an amendment to the provisional tax invoice for cantonal and municipal taxes for 2020 if a drop in personal or corporate income, or even a loss, is expected in the current year. If, due to the impact of COVID-19, companies are unable to pay tax liabilities that have been finally assessed and are due for payment, they may apply for an extension to the payment deadline or request to pay in instalments. Some cantons have already communicated that they will deal with such requests quickly and fairly. Certain cantons are also temporarily waiving interest on late payment. If it is not possible to pay taxes for the reasons described above, an application can be filed for a partial or complete remission of final tax liabilities. Based on previous practice, however, a remission will only be considered in serious and justified cases of hardship.

The measures vary from canton to canton. You can find an overview of all cantonal measures here.

Measures under procedural law

Since 20 April 2020, the legal standstill in debt enforcement procedures and the court holidays for civil and administrative proceedings have ended. All other legal deadlines, such as running periods for appeals against tax assessments, were not suspended and must therefore be observed.

Measures related to insolvency laws

Since 20 April 2020, should there be a reasonable suspicion of overindebtedness, the Board of Directors and/or the audit firm has the option to waive informing the courts, provided the company was not already overindebted as at 31 December 2019 and if it is likely that the overindebtedness can be eliminated by 31 December 2020 (click here for further information). Additional relief is granted for debt restructuring proceedings, i.e. a special payment deferral was created for SMEs which were thrown into financial turmoil because of COVID-19. A payment deferral due to COVID-19 was set at 3 months and may be extended to 6 months by a debt restructuring court (click here for further information).

International (fiscal) measures in the COVID-19 crisis

Governments around the world are taking rapid measures to protect the economy from the impact of the COVID-19 virus. These measures are aimed at supporting companies and their employees. KPMG is actively observing global reactions to the ongoing crisis, with a special focus on tax measures. A summary of the latest developments is available here. KPMG will update this page regularly to keep you abreast of the latest tax information.

Further measures

The existing short-time work regulations have been extended and simplified as part of the package of measures (for more information read here in this blog and here). Self-employed people can apply for compensation if their income drops due to measures mandated by the authorities. This compensation can also be granted to employees with income loss because they have to care for their children. Emergency aid and compensation is also available in the area of culture and for childcare facilities. Sporting organizations can benefit from additional support and there are further measures in place for the tourist industry and regional policy.

Possible tax implications for groups

Within a group, internal measures may be necessary, e.g., providing additional liquidity or strengthening a group company's equity. Intercompany loans or equity injections can have tax implications. It is also important to examine the impact on the annual financial statements and intercompany transfer prices (discover more here).

Possible implications relating to cross-border employees

New questions and issues are emerging with regard to the place of taxation or social security contributions in light of changes to immigration regulations and the order to work from home. The new entry requirements need to be taken into account for any business travel. Amendments to the provisions on work permits should also be considered (find out more here).

How we can support you

KPMG can help you take advantage of the federal and cantonal support measures. We can also help you assess the tax implications in areas such as:

- Taking out a bridging loan
- Amending your advance tax and social security payments for the current year
- Arranging with the relevant tax authorities to pay provisional tax liabilities in installments
- Submitting applications to delay payment of final tax liabilities or request a remission
- Assessing the potential tax implications of intercompany measures
- Informing you of and coordinating international aspects and foreign measures, together with our international KPMG network
- Supporting you with legal topics such as short-time work applications or amended immigration regulations

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