

# Current tax information for our clients

20 March 2020

## Tax measures to take into consideration the effects of coronavirus

At the Federal Press Conference on March 13, 2020, Federal Finance Minister Scholz and Federal Economics Minister Altmaier presented a **package of measures to cushion the economic impact of the coronavirus**. The aim of the package of measures is to provide companies and businesses with sufficient liquidity to secure growth and employment.

In addition to simplified access to short-time work compensation (*Kurzarbeitergeld*) and favourable

loans (especially KfW loans), improved possibilities for **deferral of tax payments, reduction of advance payments** and in the area of **enforcement** are to be provided as **tax liquidity support**.

The tax measures can be implemented through **administrative channels**. A legislative procedure is not necessary in this respect.

On March 19, 2020, the **Federal Ministry of Finance (BMF)** published a **decree on the tax**

**measures to take into consideration the effects of the coronavirus**. Also on March 19, 2020, the German federal states published a **decree on trade tax measures** to account for the effects of the coronavirus.

Some of the most pressing **questions and answers** are listed below, taking into account the current administrative instructions.

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### 1. General

#### Which tax concessions are planned?

With regard to fiscal liquidity support, improved possibilities for deferral of tax payments, reduction of advance payments and in the area of enforcement should be granted.

#### Are individual requirements for the measures already known?

According to the administrative instructions, adjustments to advance payments of income tax, corporation tax and trade tax can be made "on presentation of their circumstances" for "taxpayers who can be shown to be directly and significantly affected". In addition, applications for deferral of taxes already due or becoming due by December 31, 2020 may be submitted. These applications are not to be rejected because the taxpayers are not able to prove the value of the damages incurred in detail. No strict requirements are to be set when reviewing the conditions for deferrals.

### **Is there already a form for the applications?**

The Bavarian State Office for Taxes as well as the Fiscal Authorities of North Rhine-Westphalia have already provided simplified application forms for "Tax relief due to the effects of the coronavirus" (<https://www.finanzeamt.bayern.de/Informationen/News>, <https://www.finanzverwaltung.nrw.de/de/information/corona>). With this, an interest-free deferral and a reduction of advance payments or the trade tax assessment amount can be applied for in a simplified way and without further information of reasons. Please note that the application forms are initially only valid for Bavaria and North Rhine-Westphalia. In the meantime, the application can be coordinated with the responsible tax office.

### **Over what period should the tax measures extend?**

The waiver of enforcement measures or late payment penalties is to be granted until December 31, 2020. Applications for a reduction of the trade tax base for the purpose of advance payments can be submitted until December 31, 2020 (cf. federal state decrees dated March 19, 2020). The BMF decree of March 19, 2020 provides for a corresponding period for deferral applications and applications for adjustment of advance payments for income and corporation tax purposes.

### **Are requests for deferral of taxes due after December 31, 2020 and requests for adjustments to advance payments after December 31, 2020 also possible?**

According to the BMF decree, such applications are possible. However, they require a special justification.

### **Are tax reliefs also planned for taxes administered by the customs administration (e.g. energy tax and air traffic tax) or the Federal Central Tax Office (e.g. insurance tax)?**

Corresponding reliefs are planned. The Directorate General of Customs has been instructed to accommodate taxpayers in an appropriate manner. The same applies to the Federal Central Tax Office, which will act accordingly in its responsibility for insurance tax and value added tax.

## **2. Deferral / Remission**

### **What relief should be granted for tax deferrals?**

The tax authorities may defer taxes if the collection would constitute a significant hardship. In the BMF decree of March 19, 2020, taxpayers who are demonstrably directly and not inconsiderably affected may submit applications until December 31, 2020 for deferral of taxes already due or becoming due by that date. In doing so, the tax authorities are instructed not to impose strict requirements when reviewing the conditions for deferrals. This will support taxpayers' liquidity by deferring the date of tax payment.

### **Is the deferral interest-free?**

According to the statements made at the press conference, the deferments are to be made without interest. This is also provided for in both application forms of the Bavarian State Tax Office and the Fiscal Authorities of North Rhine-Westphalia. According to the BMF decree, the charging of deferral interest should generally be waived.

### **Is a deferral of VAT also possible?**

The BMF decree of March 19, 2020 does not explicitly mention VAT. According to verbal information from the BMF, the decree did not refer to VAT; a deferral of VAT in accordance with the simplified requirements of the BMF letter is therefore not possible. According to press releases from individual states (e.g. Bavaria on March 17, 2020 and Hesse as well as North Rhine-Westphalia on March 19, 2020), however, the deferral option should also extend to VAT.

### **Is a deferral of wage tax and capital gains tax also possible?**

No, tax deductions as wage tax and capital gains tax cannot be deferred (§ 222 sentences 3 and 4 AO). For tax withholding amounts, it is possible to submit an application for deferral of enforcement to the responsible tax office.

### **To which authority should an application for deferral or remission of trade tax be submitted?**

Applications for deferment and remission are to be submitted to the municipalities. Only in Berlin, Bremen and Hamburg, where the assessment and levying of trade tax has not been transferred to the municipalities, are the applications to be submitted to the respective tax office (cf. federal state decrees dated March 19, 2020).

### **Can social security contributions also be deferred?**

The collecting agency (health insurance fund) may defer entitlement to the total social security contribution if

- immediate collection would entail considerable hardship for the debtor,
- the claim is not jeopardised by the deferment and
- the contribution claims are deferred equally for all insurance carriers.

Considerable hardship for the employer exists if he is temporarily in serious financial difficulties due to unfavourable economic circumstances or, in the case of immediate collection of the total social security contributions, would be caught up in such difficulties. Collection agencies may, in principle, defer the total social security contributions only against payment of an appropriate interest rate and the provision of sufficient security.

## **3. Advance payments**

### **What relief should be granted for advance tax payments?**

According to the administrative instructions of March 19, 2020, adjustments to advance payments of income tax, corporate income tax and trade tax may be made “on presentation of their circumstances” in the case of “taxpayers who can be shown to be directly and not inconsiderably affected”. These applications are not to be rejected because the taxpayers are not able to prove the value of the losses incurred in detail.

### **When are the next advance payment dates?**

Income/Corporate tax: on 10 June 2020

Trade tax: on 15 May 2020

### **Is it possible to reduce advance tax payments also “retroactively”?**

Generally, yes. If a reduction of the advance payments already due, i.e. currently the first advance payment for the assessment period 2020, is desired, this should be expressly requested. However, it is at the discretion of the tax office or the municipality how the amount to be reduced is distributed, i.e. whether only advance payments due in the future are reduced or also the advance payments already due and paid at the time of adjustment (= (partial) reimbursement). The administrative instructions of March 19, 2020 do not contain further details on this.

### **To which authority should an application for reduction of trade tax be submitted?**

In principle, both the municipality, if it is entrusted with the assessment and collection of trade tax, and the tax office (by changing the trade tax base) can (discretionarily) reduce the advance payments for trade tax. In principle, the municipality must contact the tax office before independently changing the advance payments. If the tax office changes the trade tax assessment amount, the municipalities are bound by it. As a rule, the tax office will take action if it also adjusts the advance payments of income tax and corporation tax (cf. federal state decrees dated March 19, 2020). In this case, for the purposes of trade tax prepayments, it determines the expected tax base to which the municipalities are bound when adjusting the prepayments. As a result, it is generally advisable to file an application for a reduction of the tax base for the purposes of trade tax prepayments. This also avoids multiple applications to each municipality where a permanent establishment exists.

### **Can the special advance payment of VAT paid in 2020 be reduced to zero?**

The BMF decree of March 19, 2020 does not make any mention of VAT. However, the press release of the Hessian Ministry of Finance of March 19, 2020 points out that a corresponding informal application is possible. Companies will then be refunded the special advance payment of VAT already paid, provided that it is not

to be offset against other payment charges. It should be noted that this is not a nationwide regulation. In case of doubt, the procedure should be coordinated with the responsible tax office.

#### 4. Enforcement

##### Which reliefs should be granted for enforcement measures?

Enforcement measures (e.g. account seizures) or late payment surcharges should be waived until December 31, 2020 as long as the debtor of a tax payment due is directly affected by the effects of the corona virus. According to the BMF decree of March 19, 2020, enforcement measures should be waived for all tax payments in arrears or due by December 31, 2020, as defined in the BMF decree, if the tax office becomes aware, through notification by the taxpayer or in some other way, that the enforcement debtor is directly and not insignificantly affected.

#### 5. Other

##### What tax measures are taken in other countries?

Countries worldwide are taking fiscal and economic policy measures to mitigate the economic impact of the corona virus. KPMG provides continuous information on current developments on the Internet:

<https://home.kpmg/us/en/home/insights/2020/04/taxnewsflash-coronavirus-covid-19-developments.html>

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Your direct contacts at KPMG AG Wirtschaftsprüfungsgesellschaft will be pleased to help you with any questions and to support you with tax-related measures.

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