

# COVID-19: PRESSURE POINTS: TAX RELIEF MEASURES (GERMANY)

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Legal Briefings - By **Steffen Hörner**

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## Update 23 April 2020:

The German government has announced new plans to implement additional tax measures in order to ease the burden of the COVID-19 pandemic:

- **Easing loss-carry-back rules.** For small and medium-sized enterprises, it will become possible to offset, to a certain extent, expected losses for 2020 against advance tax payments made in respect of 2019. This is likely to result in earlier tax refunds compared to the current rules, under which a tax refund on the basis of a loss-carry-back from 2020 to 2019 would have required tax assessments for both periods, and these could have been realistically expected only from 2022 onwards. It is understood that an upper limit of 15% will apply to the new rules, albeit details are yet to be announced.
- **Lower VAT rate for restaurants.** The VAT rate on meals will be reduced from 19% to 7% for the period from 1 July 2020 until 30 June 2021.

## 17 April 2020

### **DEFERRALS AND REDUCTIONS OF TAX PAYMENTS**

Under guidelines issued by the German Federal Ministry of Finance and the German Federal States (*Länder*), for taxpayers that have been affected by COVID-19 it will become easier to defer certain tax payments, as well as reduce prepayments for 2020; enforcement measures and late payment penalties will be waived until 31 December 2020. This will apply to federal taxes such as corporate income tax, value added tax and insurance tax, to trade tax as well as to taxes that are administered by the customs administration such as energy and aviation tax. It does not directly apply to wage taxes and withholding taxes as well as local taxes such as property taxes, however.

The plans in more detail:

- **Make it easier to be granted tax deferrals.** Tax offices can generally defer taxes for 2020 if their collection would lead to significant hardship of the taxpayer. The German Federal Ministry of Finance has instructed the tax offices to lower threshold for this condition to be met by taxpayers. In particular taxpayer will only have to demonstrate that they are directly and not immaterially affected by COVID-19 but do not have to provide (exact) amounts of their potential losses.
- **Make it easier to reduce tax prepayments.** Tax prepayments for 2020 can be reduced in a swift and straightforward manner as soon as it becomes apparent that a taxpayer's income in the current year is expected to be lower than in the previous year.
- **Waive enforcement measures and late-payment penalties** until 31 December 2020 if the taxpayer is affected by COVID-19.

In order to qualify for all of these three measure, taxpayers need to be directly and not only immaterially (*direkt und nicht unerheblich*) affected by COVID-19.

Many local and municipal administrations offer similar relief measures in respect of local and municipal taxes, for instance property tax.

The German Federal Ministry of Finance has meanwhile published answers to frequently asked question in relation to these measures, lease click [here](#).

## **INVESTMENT FUNDS**

Moreover, new guidance by the German Federal Ministry of Finance provides specific relief for investment funds. Under German tax rules, equity-based funds and mixed funds (*Aktien- und Mischfonds*) must invest a certain minimum portion of their funds in equities (the “Minimum Equity Investment Portion”) in order to qualify for certain tax advantages. Funds can fail to meet their Minimum Equity Investment Portion either actively, e.g. by disposing of shares, or passively, e.g. because share prices drop. Under the new guidance, investment funds that temporarily fail to meet the Minimum Equity Investment Portion passively between 1 March 2020 and 30 April 2020 as a result of share prices declining due to the COVID 19 pandemic, will not lose their tax advantages.

### **DONATIONS, SPONSORSHIP PAYMENTS, FREE-OF-CHARGE GRANTS**

Generally, for donations to be tax deductible, taxpayers making a donation would need to present to the tax authorities a specific donation receipt for tax purposes (*Zuwendungsbestätigung*) issued by the recipient of the donation. Under new guidance by the German Federal Ministry of Finance, donations aimed at alleviating the effects of the COVID-19 pandemic can, if certain requirements are met, be recognized as tax deductible more easily, in particular without the taxpayer being required to present a specific donation receipt to the tax authorities.

Similarly, sponsorship payments as well as free-of-charge deliveries made by businesses to business partners made by taxpayers to help those affected by the COVID-19 pandemic can be treated as tax deductible more easily.

Finally, in order to encourage donations in kind of respiratory protective masks and disinfectants to, e.g. hospitals, medical practices, retirement and nursing homes as well as public institutions such as the police and fire departments, such donations in kind will temporarily not attract a VAT liability until 31 December 2020.

### **TAX RELIEF FOR EMPLOYEES**

The German Federal Ministry of Finance has also announced additional measures aimed at providing tax relief for employees in the following specific situations:

- **Tax exemption of bonus payments and benefits in kind.** Bonus payments and benefits in kind up to an amount of EUR 1,500 paid to employees between 1 March 2020 and 31 December 2020 specifically for extra efforts during the COVID-19 pandemic will be exempt from both wage withholding taxes and social security contributions.
- **Special rules for cross-border workers.** Taxation rights in respect of the income of employees who usually cross an international border in order to commute to their workplace are usually allocated on the basis of days spent in the relevant countries. If cross-border workers now work from home during the COVID-19 pandemic, the taxation rights in respect of their income may switch to a different country. In order to avoid this, Germany is currently working on negotiating, and has already conclude some, special

bilateral arrangements under which cross-workers would be treated as if they had travelled to their workplace albeit they work from home during the COVID-19 pandemic.

## **NON-PROFIT-ORGANISATIONS**

Additional guidance by the German Federal Ministry of Finance also addresses tax measures in relation to certain non-profit organisations (“NPOs”). In order to obtain tax exempt status, German NPOs need to comply with their statutes and are particularly only allowed to use their funds, or raise funds, only to support causes that are in line with their purposes as described in their statutes. Most notably, German NPOs may now, without losing their tax-exempt status, also use their funds, or raise funds, in order to help those effected by the COVID-19 pandemic even if their activities are not in line with their purpose as described in their statutes.

**For more information on the German Government's response click [here](#).**

[More on COVID-19](#)

## **KEY CONTACTS**

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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