



Emergency Measures for VAT taken in Germany due to the Coronavirus

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1 Federal Ministry of Finance: Deferral / Reduction / Abatement / Waiver of Enforcement

On 19 March 2020, the Federal Ministry of Finance published a [letter](#) on the basis of which the regional tax authorities can take tax measures in the fields of PIT, CIT and VAT in order to alleviate the effects of the coronavirus.

Taxpayers who can prove that they have been directly and not inconsiderably affected by the virus may submit applications for interest-free deferral of taxes until 31.12.2020 with regard to taxes which are or will become due in that period. Taxpayers must explain to the tax authorities why a deferral is necessary. However, no strict requirements are expected to be imposed on the conditions for deferral. The tax offices should only request additional information and further explanations in exceptional cases. Applications for deferral should be processed unbureaucratically and generously from now until the end of the year.

The appropriate forms for facilitating applications for deferral (or the adjustment of tax prepayments) are already available on some of the servers of the state tax authorities: [Baden-Württemberg](#), [Brandenburg](#), [Hesse](#), [Mecklenburg-Western Pomerania](#), [North Rhine-Westphalia](#), [Bavaria](#), [Saxony](#), and [Thuringia](#). To date it has been almost impossible to defer VAT and applications have generally been rejected on the grounds that VAT is only a transitory item for entrepreneurs. This strict view has thus been temporarily suspended in order to provide liquidity to businesses in an unbureaucratic manner.

In addition, according to the Ministry, companies directly affected by the coronavirus are to be exempted from enforcement measures until the end of 2020. Furthermore, late payment penalties are to be waived.



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2 Reimbursement of special advance payments

Some federal states have announced that they intend to provide additional liquidity for companies by refunding the special VAT advance payments already made as a condition for the permanent extension of the filing deadline: [Hesse](#), [North Rhine-Westphalia](#), [Bavaria](#), and [Saxony](#). For this purpose, corrected declarations would have to be submitted via ELSTER using the form "USt 1 H" with the value "0" in line 24. The granted permanent extension should remain unchanged. In some cases, apparently, a restriction will be imposed to the effect that any tax advance payments already paid should only be refunded if they are not to be offset against other tax liabilities. This restriction, however, effectively renders the measure a blunt sword because most companies probably have other tax liabilities. Consequently, the companies would not collect additional funds which would not be helpful at all.

3 Procedural information

The above measures are helpful and also necessary. However, it should not be forgotten that the tax regulations remain unchanged. Companies and their tax advisors should ensure that the procedural principles are still met.

If the application forms for deferral or reduction of tax prepayments (see 1. above) refer to the fact that incorrect information may result in criminal prosecution, this should certainly not deter taxpayers from filing the applications. The tax authorities also have a certain margin of discretion as to when a "significant hardship" exists, under what circumstances a tax payment "can no longer be made" and what is meant by "as a result of the effects of the coronavirus". Against this background, however, correct information should, of course, be provided. Additionally, this information should be detailed such that the accusation of not having provided complete information, thus giving an inaccurate picture of the overall circumstances, does not subsequently arise.

The same applies to an application for a reduction of special advance payments, as suggested by the tax authorities. Pursuant to sec. 47 para 1 sentence 2 of the VAT Implementing Regulation, this amounts to one eleventh of the sum of the VAT liability for the previous calendar year. If, contrary to better knowledge, the VAT liability on which the calculation is to be based is now numbered "0" in line 24, it could be advisable to refer to the background in an accompanying letter (with entry "1" in line 34) and, in Bavaria for example, to the practical information on filing applications on the homepage of the Bavarian State Ministry (StMFH).

4 Further notes

It has also been reported that there is a current discussion as to whether an extension of the deadlines for submitting VAT returns or a general changeover from monthly to quarterly VAT returns could be made.

If there are difficulties and delays in the collection of the remunerations, a correction pursuant to sec. 17 VAT law would also have to be considered, so that a reduction of the VAT payment burden may already be possible, rather than applying for a deferral of payment of assessed VAT. For this purpose, however, it must be checked when the condition of "uncollectability" exists.

At present, it is probably also the case that companies will receive reminders regarding tax prepayments that have become due. These reminders are sent using an automated process and cannot be so easily stopped by the tax authorities. It should be noted, however, that the above mentioned measures are not counteracted by this.