

TAX MEASURES IN GERMANY IN THE CORONA CRISIS

In order to support companies in coping with the economic consequences of the Corona pandemic, the German legislator has adopted various tax measures in two legislative procedures (Corona Tax Assistance Act and Second Corona Tax Assistance Act). In particular, the focus is on strengthening the liquidity of companies, e.g. by means of a lump-sum loss carryback, and economic impulses, e.g. by temporarily reducing VAT rates. In addition, tax benefits for employees and families have also been agreed.

CHANGES IN INCOME TAX LAW

- ▶ Special payments to employees in the Corona crisis are income tax free up to EUR 1,500. The tax exemption applies to allowances or benefits in kind which employers grant their employees between 1.3.2020 and 31.12.2020 in addition to the wages owed in any case.
- ▶ Contributions by the employer to short-time work compensation are exempt from income tax up to 80% of the difference between the target and actual remuneration. This also corresponds with the treatment under social security law. The precondition for this preferential treatment is that the subsidies are paid between 1.3.2020 and 31.12.2020.
- ▶ In income tax and corporate income tax, taxpayers can apply a loss carryback to the previous assessment period and thus retroactively reduce the tax burden there. Instead of the previously possible loss carryback of EUR 1 million (or EUR 2 million in case of a joint assessment of spouses), the tax loss carryback for the years 2020 and 2021 is extended to EUR 5 million and EUR 10 million respectively (in case of a joint assessment). With regard to trade tax, there is still no possibility of a loss carryback.
- ▶ By means of a lump-sum loss carryback amounting to 30 % of the income in 2019 (excluding income from employment), income tax or corporate income tax prepayments for 2019 can already be reduced (retroactively). The prerequisite for this is that the advance payments for 2020 have already been reduced to EUR 0. This liquidity-effective loss utilization of the loss expected to arise in 2020 in a lump-sum amount is also possible in the 2019 tax return. If a higher loss

can already be proven in 2020, it can be taken into account accordingly up to a maximum amount of EUR 5 million (or EUR 10 million).

- ▶ A declining balance depreciation method was introduced. It is applicable to movable fixed assets acquired or manufactured in 2020 and 2021 and amounts to 2.5 times the straight-line depreciation (maximum 25 %).
- ▶ The private use of company cars is taxed more favourably if the company car has no carbon dioxide emissions per kilometre driven and has a gross list price of a maximum of EUR 60,000. Previously, this rule only applied if the gross list price did not exceed EUR 40,000.
- ▶ From a tax point of view, it is possible to avoid capital gains taxation when selling certain business assets, such as land, buildings or shares in corporations, by setting up a reserve and later transferring the reserve to a suitable reinvestment asset (§ 6b German income tax act - EStG). The prerequisite is that reinvestment in a suitable asset takes place within a certain period (regularly within the four years following the year of sale). These reinvestment periods are temporarily extended by one year.
- ▶ A corresponding regulation also applies to the use of investment deductions (§ 7g EStG), which small companies have set aside in the past to reduce profits from future investments. The deadlines for the use of investment deductions, which were due to end in 2020, are extended by one year.
- ▶ If trade tax is payable on profits, this tax burden can be offset against income tax to a certain extent. The relevant reduction factor has been raised from 3.8 to 4.0, so that the trade tax burden can be completely neutralized in more cases than before.
- ▶ Certain expenses, e.g. interest expenses, rents and licence fees, are to be added to the profit pro rata for the calculation of trade tax. The tax allowance provided for these additions has been increased from EUR 100,000 to EUR 200,000.
- ▶ The legislator has created relief for conversions and contributions: Following the extension of the retroactive period to 12 months in the Conversion Act, an extended tax retroactive period of 12 months in the Conversion Tax Act now also applies to transactions outside the Conversion Act (change of legal form to a partnership or contribution) if the application for registration or the conclusion of the contribution agreement is made in 2020.
- ▶ Parents receive a one-time child bonus of EUR 300 for each child entitled to child benefit. This bonus is treated like child benefit, so that depending on the income situation of the parents, the

child allowance may continue to be more favourable in tax terms even after the bonus has been taken into account.

- ▶ The relief amount for single parents will be increased for a limited period of two years from currently EUR 1,908 to EUR 4,008 for the years 2020 and 2021.

CHANGES IN SALES TAX LAW

- ▶ The VAT rate has been reduced from 19 % to 16 % (regular tax rate) and from 7 % to 5 % (reduced tax rate) for a limited period from 1.7.2020 to 31.12.2020.
- ▶ Meals served in a restaurant were previously subject to the regular VAT rate of 19 %. From 1.7.2020 to 30.6.2021 the reduced VAT rate is to be applied to restaurant and catering services. Consequently, meals in restaurants are subject to a VAT rate of 5 % from 1.7.2020 to 31.12.2020 and 7 % from 1.1.2021 to 30.6.2021. Drinks consumed in a restaurant are not covered by the change. The regular VAT rate (16 % from 1.7.2020 to 31.12.2020 and 19 % from 1.1.2021 to 30.6.2021) continues to apply to beverages.
- ▶ For legal entities under public law a new regulation on entrepreneurial status came into force on 1.1.2016. In order to facilitate the transition to the changed VAT treatment for the municipalities, there is a transitional regulation: affected legal persons under public law could continue to apply the old regulation until 1.1.2021. The transitional arrangement was extended so that the VAT treatment under the old law may continue to be applied to services performed before 1.1.2023.
- ▶ The due date for import turnover tax is postponed to the 26th of the second month following the import.

CHANGE IN TAX INCENTIVES FOR RESEARCH

Since 1.1.2020, research and development activities have been eligible for tax incentives. The maximum assessment basis of the tax research allowance will be doubled in the period from 1.7.2020 to 30.6.2026. This means that personnel costs for employees working in research and development can be subsidized up to an amount of EUR 4 million per year (instead of EUR 2 million previously), which, at an (unchanged) subsidy rate of 25%, means a research allowance of EUR 1 million.

Publisher

Ebner Stolz
www.ebnerstolz.de

Status: 14.7.2020

Editors

Dr. Ulrike Höreth, Phone +49 711 2049-1371
Brigitte Stelzer, Phone +49 711 2049-1535
Dr. Sabrina Kummer, Phone +49 711 2049-1950

This publication contains only general information that is not suitable as a basis for decisions in individual cases. The publisher and the authors do not assume any liability for the correctness and completeness of the information. Should the reader consider any of the information contained therein to be relevant to him or herself, it is solely in the responsibility of him or her or his or her advisors to verify the factual accuracy of the information; under no circumstances is the above information suitable to replace competent advice in individual cases. The publisher is at your disposal for this purpose.

The article is subject to copyright protection. Storage for your own private purposes or forwarding for private purposes (only in complete form) is permitted. Commercial use, particularly the reprint (also in extracts) in other newsletters or the publication on websites, requires the consent of the publisher.