

Fiscal options for action due to the coronavirus

March 13 2020

While, first of all, the focus of the coronavirus may be on preventing its spread, companies should also keep an eye on the resulting financial consequences and, where possible, take all necessary steps to maintain liquidity.

Concerning tax law, the following options should be considered:

Reductions of advance payments

On 10 March, the income tax and corporation tax advance payment for the 1st quarter of 2020 was due; taking into account the grace period, payment could be made by 13 March 2020 at the latest. It is unclear whether an application for a reduction for the 1st quarter will still be successful or can be approved retroactively due to the short time available. In any case, an application for retroactive reduction of advance payments should also be considered.

In any case, with regard to the future dates of advance payments

- 15 May 2020: Advance payment of trade tax (2nd quarter) and
- 10 June 2020: Advance payments of income tax and corporate income tax (2nd quarter)

applications for reduction should be made. Such a request initially has no effect on the due date, and should therefore be combined with a request for "technical deferral" for the amount of the difference. This prevents the payment from becoming due or a direct debit from being made before the tax authority has made a decision on the application.

In the context of the application for reduction, it has to be explained that, due to the loss of turnover that has already occurred or is still expected, the expected taxable income in 2020 on which the determination of the advance payments is based will be lower than expected.

Deferrals

If due tax claims cannot be settled (on time) due to liquidity bottlenecks, an application for a deferral can be made in accordance with § 222 AO. The prerequisite for the deferral is that the collection or payment at maturity would mean considerable hardship for the debtor and the claim does not appear to be endangered by the postponement. The decision about this is at the discretion of the tax authority.

Value added tax

If the so-called debit taxation ("Soll-Versteuerung") has already caused (partial) defaults of claims and it is to be expected that the claims cannot be settled, not fully or in the foreseeable future, a reduction of the assessment basis can be declared in the current advance notification period (in which this becomes known).

This would have the consequence that the VAT already paid on the full tax base would be refunded accordingly.

If the claim is settled in the future, this would have to be taken into account (increased) accordingly.

Concerning input tax, incoming invoices should be checked quickly (at least to a significant extent) so that they can be taken into account in the current advance return.

Due to the tense situation, the authorities are expected to comply with requests for reductions and deferrals. The Bavarian State Ministry of Economic Affairs, Regional Development and Energy has announced that advance payments of income tax, corporate income tax and sales tax will be deferred and advance payments of trade tax will be set at zero in order to accommodate ailing companies. The BMF ("Bundesfinanzministerium") is currently preparing a corresponding letter on possible tax relief due to the coronavirus. Until a uniform regulation is passed across Germany, the tax authorities may waive the usual deferral interest of 0.5 percent per month in individual cases, either partially or in full, if it is credibly demonstrated that the corona epidemic is the cause of the lack of liquidity.

We will be happy to assist you if you have any questions or need support.

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