

COVID-19: Additional tax measures announced and implemented by government

Measures include several decrees to provide assistance for taxpayers

Following the initial 19 March 2020 decrees from the German Ministry of Finance (MOF) and the state tax authorities (see [GTLN dated 23 March 2020](#)) that introduced certain measures to boost liquidity, the MOF has introduced additional administrative measures in response to the coronavirus (COVID-19) and to aid taxpayers. These include measures announced between 1 April and 9 April 2020 on topics including the tax treatment of cross-border commuters, additional guidance on the measures to boost liquidity, the treatment of payments to support employees and charitable organizations, and the tax classification of funds.

Cross-border commuters

In a statement dated 3 April 2020, the MOF announced mutual agreements with neighboring jurisdictions to avoid unfavorable tax consequences for cross-border commuters that are working from home due to COVID-19 and stay-at-home policies. Where cross-border commuters spend more days working from home than under ordinary circumstances, this may affect the allocation of taxing rights between the residence jurisdiction and the jurisdiction of the regular workplace. The statement specifically mentions mutual agreements with the states of Luxembourg, the Netherlands, and Austria. The statement also mentions that no mutual agreement is required with France, since the applicable tax treaty does not contain a provision regarding the allocation of taxing rights between the two jurisdictions based on days spent working from home.

The MOF concluded mutual agreements with Luxembourg on 3 April 2020 and with the Netherlands on 6 April 2020 to implement the relief and to provide for the treatment of compensation for reduced working hours under the applicable tax treaty. A mutual agreement with Austria was concluded on 15 April, 2020 and a mutual agreement with Belgium was concluded on 6 May 2020.

Measures include several decrees to provide assistance for taxpayers

The MOF issued a set of FAQs on 1 April 2020 to provide additional details regarding its 19 March 2020 decree that includes measures to boost taxpayers' liquidity. Over nine pages, the MOF provides guidance on 33 different topics, e.g., the administrative procedures that are required to benefit from the measures, further details on definitions used in the decree, the office hours and working status of the tax authorities and the carrying out of tax audits during COVID-19, and certain wage tax issues.

Tax exemption for supplemental payments to employees

In a decree dated 9 April 2020, the MOF granted a tax exemption for supplemental assistance payments of up to EUR 1,500 to employees that are made in the period from 1 March 2020 to 31 December 2020, either as a cash payment or as a payment in kind.

Tax measures to support charitable activities and donations

In another decree dated 9 April 2020, the MOF introduced certain measures to make financial support payments and donations to charities more attractive from a tax perspective. These measures include, among other things, simplified documentation requirements, more flexibility for charitable organizations to raise funds for COVID-19-related purposes, and relaxed requirements for favorable tax treatment of support payments from corporate taxpayers and individuals. These measures are valid for donations that are made in the period from 1 March 2020 to 31 December 2020.

COVID-19 measure for Investment Tax Act purposes

In a letter dated 9 April 2020, the MOF provided a relaxed interpretation regarding the current 20-day threshold for funds to qualify for a classification that allows them favorable tax treatment (the threshold relates to the specific number of days during which

noncompliance with certain criteria is seen as not being harmful to the status of the fund for tax purposes, as provided in a decree from the tax authorities dated 21 May 2019 (recital 2.19)).

Comments

It seems likely that additional measures and guidance from the tax authorities will be published in the coming weeks. Taxpayers should carefully monitor announcements from the MOF and the various state tax authorities.

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