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*German Tax and Legal News*

## **COVID-19: Government agrees on comprehensive financial and tax measures**

Measures include temporary reduction of VAT rates and option of increased loss carrybacks

Germany's governing grand coalition of Christian Democrats and Social Democrats agreed on a comprehensive financial aid package on 3 June 2020 to combat the economic effects of the coronavirus (COVID-19) and to stimulate and reinvigorate the economy. The measures comprise 57 action items that are summarized in a 15-page paper that was published by the government late on 3 June 2020. The stimulus package for 2020 and 2021 would require funding of approximately EUR 130 billion (approximately USD 146 billion), which is approximately one-third of the regular federal budget. The package consists of various tax measures, direct financial aid measures (in particular, for families with children), a reduction of certain levies, and investment measures for new technologies. In addition, it includes a cap for social security contributions (owed by the employee and the employer, in equal portions) in 2020 and 2021, at 40% of the employee's salary, and support measures for governments at a local level. It comes as a surprise that the package does not include any subsidies for the purchase of new cars ("cash for clunkers") or a complete and final abolition of the solidarity surcharge.

From a tax perspective, the following measures are planned:

- The general VAT rate of 19% would be temporarily reduced to 16%, and the reduced VAT rate of 7% would be temporarily reduced to 5%. Both measures would apply for the period from 1 July 2020 to 31 December 2020. The due date for paying import VAT would be extended from the 16th day of the following month to the 26th day of the following month.
- The amount of the one-year loss carryback that is permitted for income tax purposes would be increased from EUR 1 million (for individual filers and corporations) and EUR 2 million (for joint filers) to EUR 5 million and EUR 10 million, respectively. The increase would be applicable for losses incurred in 2020 and 2021. It also would be possible to utilize such a loss carryback in the income tax return for 2019, even before the tax return for 2020 has been filed; this would be made possible via a "Corona accrual" in the tax balance sheet. The accrual would have to be eliminated no later than the end of 2022. It should be noted that for corporations the one-year loss carryback is available for corporate income tax purposes only; for local trade tax purposes, a loss carryback is not available.
- For moveable business assets, an accelerated depreciation method would be introduced for 2020 and 2021. This depreciation method would be a declining-balance method and the applicable depreciation percentages would be 2.5 times the regular straight-line depreciation percentages currently available, capped at a 25% annual percentage.
- The maximum amount of annual qualifying expenses for the newly introduced R&D tax credit would be increased from EUR 2 million to EUR 4 million, with retroactive effect as from 1 January 2020. This measure, therefore, would increase the maximum annual cash benefit (calculated as 25% of qualifying expenses) from EUR 500,000 to EUR 1 million.
- The package also includes a statement about modernizing the current corporate income tax system and, in particular, introducing an option for partnerships (which currently are treated as transparent for corporate income tax purposes) to elect to be subject to a corporate-like taxation. However, no details are included in the package.
- The credit that can be taken by individuals for income from business activities would be increased. The credit currently is calculated by applying a 3.8 multiplier to the applicable

trade tax base amount (“Steuermessbetrag”), which would be increased to a multiplier of 4. This mechanism is in place to reduce/avoid double taxation for individuals that are subject to both income tax and local trade tax.

- The existing allowance of EUR 100,000 for add-back amounts for local trade tax purposes would be increased to EUR 200,000 (it is unclear whether this would be for 2020 only or on a permanent basis).
- The conditions for employee stock ownership plans (in particular, for start-up companies) would be “improved.” However, no details are provided and whether this includes tax measures is unclear.
- The motor vehicle tax would be amended, which would result in taxation of motor vehicles depending on the amount of their CO2 emissions.

The package still must go through the legislative process and be approved by the upper and lower houses of the German parliament. However, as the governing grand coalition has the majority in both chambers, it can be expected that the package will receive final passage. It also can be expected that the legislative process will be initiated and finalized in a relatively short time period (likely within June 2020, at least for some of the measures). The details for each of the measures remain to be seen.

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