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German Tax and Legal News

Upper house approves fourth COVID-19 tax aid bill

Final bill includes more generous loss carryback provisions and extension of income tax return filing deadlines

On 10 June 2022, Germany's upper house of parliament approved the "Fourth bill on tax relief measures relating to the COVID-19 crisis," which includes several tax measures to aid taxpayers during the ongoing pandemic. The bill is based on a draft that was published by the Ministry of Finance (MOF) on 3 February 2022 (see GTLN dated 02/09/22) and approved by the lower house of parliament on 19 May 2022. Compared to the initial draft that was pubslihed by the MOF, the final bill includes some additional (taxpayer friendly) measures, including an even further extension of the tax return filing deadlines. The most important measures in the final bill are summarized below:

- The increased loss carryback amount of EUR 10 million (for individual filers and corporations) or EUR 20 million (for joint filers), which is available for losses incurred in 2020 and 2021, will be extended to losses incurred in 2022 and 2023. The previous loss carryback amounts available of EUR 1 million (for individual filers and corporations) or EUR 2 million (for joint filers) will apply to losses incurred as from 2024. In addition, the existing loss carryback period of one year will be permanently extended to two years as from 2022. For corporations, a loss carryback is available for corporate income tax purposes only and is not available for local trade tax purposes.
- For moveable business assets, the accelerated depreciation method that was introduced in 2020 for assets acquired in 2020 and 2021 will be extended to assets acquired in 2022. The depreciation method for such assets will be a declining-balance method and the applicable depreciation percentages will be 2.5 times the regular straight-line depreciation percentages under the ordinary rules, capped at a 25% annual prcentage.
- For certain healthcare workers, there will be an option for the employer to pay a bonus on a tax-free basis of up to EUR 4,500 per employee (in addition to the regular wage payments) until 31 December 2022.
- The tax-exempt allowance for compensation for reduced working hours will be extended retroactively for another six months (i.e., until the end of June 2022).
- The reinvestment period that allows for tax-neutral treatment of capital gains from the sale of certain business assets (as provided in section 6b of the Income Tax Code (ITC)) will be extended by another year if the related tax-free reserve otherwise is eliminated in fiscal year 2022 (generally, a four-year reinvestment period applies). Another one-year extension also will apply for another provision that allows for a deduction of future investment expenses for certain small and medium-sized businesses (as provided in section 7g of the ITC; ordinarily, a general three-year reinvestment period applies).
- The standard deduction for work-from-home expenses (i.e., the "home office deduction"), which was introduced for 2020 and 2021 and is calculated as a daily EUR 5 general deduction per individual with a cap at an amount of EUR 600 per annum, will be extended for 2022.
- The standard income tax return filing deadlines for the annual income tax returns for 2020 to 2024 will be extended as follows:
  - 2020: If the tax return is prepared by a certified tax advisor, the (already extended) filing deadline of 31 May 2022 will be extended to 31 August 2022. If the tax return is not prepared by a certified tax advisor, the (extended) filing deadline was 31 October 2021 and this deadline will not be retroactively extended.
  - 2021: If the tax return is prepared by a certified tax advisor, the regular filing deadline of 28 February 2023 will be extended to 31 August 2023. If the tax return is not prepared by a certified tax advisor, the regular filing deadline 31 July 2022 will be extended to 31 October 2022.
  - 2022: If the tax return is prepared by a certified tax advisor, the regular filing deadline of 28 February 2024 will be extended to 31 July 2024. If the tax return is not

prepared by a certified tax advisor, the regular filing deadline of 31 July 2023 will be extended to 30 September 2023.
- 2023: If the tax return is prepared by a certified tax advisor, the regular filing deadline of 28 February 2025 will be extended to 31 May 2025. If the tax return is not prepared by a certified tax advisor, the regular filing deadline of 31 July 2024 will be extended to 31 August 2024.
- 2024: If the tax return is prepared by a certified tax advisor, the regular filing deadline of 28 February 2026 will be extended to 30 April 2026. If the tax return is not prepared by a certified tax advisor, the regular filing deadline of 31 July 2025 will apply.

- The separate tax return filing deadlines for agriculture and forestry businesses also will be extended.
- To be aligned with the extended tax return filing deadlines, the starting date for the accrual of interest for tax payments will be extended for the years 2020 to 2024 as follows:
  - 2020: 1 October 2022
  - 2021: 1 October 2023
  - 2022: 1 September 2024
  - 2023: 1 July 2025
  - 2024: 1 June 2026
- It is important to understand that final tax payments that are assessed as a result of an income tax return do not become due until one month after the relevant tax assessment notice is issued by the tax authorities. The former applicable interest rate of 0.5% per month is subject to a pending amendment by the legislature as a result of a 2021 decision of the Federal Constitutional Court (see GTLN dated 08/20/21). The government on 30 March 2022 aproved a draft bill that proposes a reduced interest rate of 0.15% per month (i.e., 1.8% per year) on late tax payments and refunds with retroactive effect as from 1 January 2019 (see GTLN dated 04/05/22). The draft bill is still pending in the legislative process.
- Non-interest bearing payables with a term of longer than 12 months no longer will be required to be discounted at an annual 5.5% rate for fiscal years ending after 31 December 2022 (section 6 (1) number 3 ITC). Upon informal application with the tax authorities, however, this new rule may be applied for periods before 1 January 2023, provided the respective tax assessment has not not yet become final. The remaining obligations to discount accruals under section 6 (1) number 3 ITC will remain unchanged.

The final bill still must be signed by the president and published in the federal gazette to become effective. This should, however, be a mere administrative act and is expected to happen in the next few days.

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