

ACCONSIS Corona Task Force

Important additions to: Safely through the Corona Crisis - What you as an entrepreneur should now definitely consider

Dear client,
Dear client,

the corona virus is crippling the entire global economy. By closing schools and restaurants and, in extreme cases, curfews, public life has already been reduced to a minimum in many parts of the western world. While a few globally active corporations could even benefit from the pandemic, many companies are threatened with insolvency - including in Germany.

In order to prevent this from happening, the federal and state governments have in recent days designed a rescue package consisting of tax measures and liquidity funds for these very companies. In addition, emergency aid for micro-enterprises, solo self-employed persons and artists has been initiated and the EU is also supporting its member states. However, with all the help on offer, it is easy to lose track of the situation - especially when it comes to finding the right measure for your business. Because not all offers apply equally to all companies.

In this current supplement to your client information "Safely through the Corona Crisis", you will receive a concrete overview of **the financial assistance currently available to companies, what regulations and deadlines apply to them and how you can make use of them quickly and easily in case of doubt.**

1 Federal Government aid programmes for companies

Due to the current decisions of the federal and state governments to further contain the corona virus, further restrictions have now followed in addition to the previously decided closures of schools, kindergartens, museums and the ban on gatherings of any kind. Thus, the closure of hotels, restaurants, cinemas, shops that do not cover daily needs and service providers that cover the beauty sector in the broadest sense (hairdressers, beauty salons, etc.) has now been ordered.

As a result, many companies have lost revenue overnight. While costs, in the form of rents, wages and salaries, as well as consumption costs continue to be incurred, on the revenue side there is either only a small amount or even a zero.

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This is where the Federal Government's aid programme comes in.

The key message of the programme is: "There is enough money to fight the crisis and we will use these funds now."

To this end, the Federal Government has erected a "protective shield" based on four pillars. In addition to the changes to the KUG described above, the measures now adopted also affect the economic and fiscal areas.

1.1 Tax liquidity aid for companies

According to Finance Minister Olaf Scholz, it makes no sense to first request the money from the taxpayer in order to have to return it to him later. Liquidity would have to be secured.

Reduction of advance tax payments

For this reason, the Federal Government has decided to reduce the current **advance payments** to

- **Income tax,**
- **Corporate income tax,**
- **and trade tax**

on request, to reduce or even suspend them altogether.

Note: The prerequisite is that your income is likely to be lower in the current year.

We will easily be able to prove that this requirement is met in your case, for example if the official measures have led to the closure of your business.

The reduced revenues can also result from the fact that your company has to reduce production due to numerous order cancellations or due to delivery bottlenecks.

Note: Please contact us here directly so that we can calculate and compile the expected failures from a business management point of view. We will then check with you whether an application to the tax office is necessary.

The same applies to the calculations concerning the advance payments of trade tax. Here too, we can apply for a reduction at your tax office.

If you can prove that your income in the current year is likely to be lower than was expected before the Corona pandemic, the tax advances will be reduced. **What is required for the reduction of advance payments?**

1. **Presentation and calculations as to why your income is lower** (e.g. governmental closure, ordered quarantine, production stop or reduction due to external circumstances, cancellation of orders, etc.)
2. **Compile appropriate documentation.** The better these figures are plausibly prepared, the faster the tax office can make its decision.
3. Using the business management compilations, the reductions in earnings can be shown on the basis of revenues and cost types in 2019 by comparing them with the figures expected for 2020.

The Federal Ministry of Finance (BMF) does not say whether a retroactive reduction of advance payments is possible. This will rather be assessed critically. However, the more drastic the effects of the crisis on the economy will be, the more likely it is that a retroactive reduction will also be possible.

The retroactive reduction of the advance payments already made for 2019 is also being discussed, because a loss of 2020 that has not been offset can be carried back to the previous year 2019 up to an amount of €1 million and will therefore lead to corresponding tax refunds.

Refund of the special VAT payment

If you have made special advance payments on VAT, we can apply for a refund on your behalf. This is another way of ensuring liquidity for companies and businesses.

Note: The special advance payments are determined in the case of permanent extensions of the advance return for turnover tax. This amounts to one eleventh of the VAT advance payments of the previous calendar year.

The application must be submitted informally to the responsible tax office. Within the framework of this application, it must also be proven that your company is severely affected by the Corona crisis.

This measure has not yet been listed by the BMF, but has been announced by numerous state governments. You

can find out whether this "liquidity injection" is also possible in your federal state by contacting your local tax office.

Tax deferrals

It also facilitates the **granting of deferrals** by the tax office. The tax authorities can defer taxes if the collection would represent a considerable hardship.

Note: Interest (1.5% per month) is usually charged for the duration of a granted deferral. The deferral interest should not be charged.

The BMF has expressly pointed out that the tax authorities have "no strict requirements" to make of the applications. Furthermore, the BMF points out that the applications are also not to be rejected if the damages incurred cannot be proven in detail in terms of value.

In this case, the Federal Ministry of Finance leaves the charging of deferral interest open if it turns out in retrospect that the deferral was obviously unfounded. If you have already applied for a deferral yourself and the tax office demands deferral interest, please contact us so that we can arrange the cancellation for you.

Note: The facilitation of deferral applications applies to applications up to 31.12.2020. The tax authorities keep templates for deferral applications on their websites, which are currently being updated.

Tax deferral and tax prepayments from 2021

Please contact us at the end of the year for the recalculation of the advance payments. The interest-free tax deferrals will also probably be limited until 31.12.2020. Together we have to determine a probable operating result for 2020 and, based on this, develop a forecast for 2021.

The tax deferrals now granted must be written off. The application for tax advances for the year 2021 is based on the forecast for 2021.

Important: Wage tax is excluded from the deferral option; this is because the tax debtor is your employee and you pay the taxes quasi on trust.

Trade tax is levied by the municipalities. According to statements made so far by the state finance ministers, they should also be generous when applying for deferral.

Note: If - contrary to expectations - you should encounter problems with the tax office of your municipality here, please contact us. We will then take care of your request.

If taxes are not paid or are not paid on time, **enforcement measures** are threatened in addition to **late payment surcharges**. Both instruments will now be waived until

31.12.2020 as long as you as the debtor of the due tax payment are directly affected by the effects of the corona virus.

Note: However, you must also become active here. The tax office will not waive enforcement measures for all tax debtors on its own initiative. If late payment surcharges have been set or even an enforcement measure, such as the attachment of an account, has been threatened, you must contact the tax office directly so that they will refrain from doing so. We will be happy to support you in this.

The waiver of (further) enforcement measures with regard to taxes in arrears or due by 31.12.2020 (income and corporation tax) is only possible if you are **directly and not significantly** affected by the Corona crisis. Although the BMF points out that enforcement measures will also be discontinued if the tax office learns of the affectedness in another way, you should nevertheless not let it come to this and actively clarify this question.

The BMF has not commented on the question of how to deal with late payment surcharges. The late surcharge can be set if you do not meet your obligation to file your tax return or do not do so within the deadline.

Note: If the current situation does not allow you to file your tax return on time, you can also apply for an extension of the deadline. We assume that the tax offices are instructed to handle such applications generously.

The BMF can only speak for its area. However, it has also instructed the customs administration that you should also be accommodated in the taxes administered there (e.g. energy tax and air traffic tax) in an appropriate manner. Insurance tax is also covered by the measures.

Overall, both the Federal Government and the Länder emphasise that help should be provided "unbureaucratically". It remains to be seen whether these lofty political goals can be implemented in the administration.

Note: In this case, please contact us and we will support you through our various communication channels in making the appropriate applications.

In its current resolutions, the Federal Government expressly points out that economic developments are being closely monitored. If there are signs of a serious disturbance, further aid measures will probably be taken.

1.2 Billions in liquidity support for companies

The German government wants to stop the vicious circle of declining sales (even in some cases close to zero) and

at the same time keeping running costs constant. For this reason, the Federal Government has expanded existing programs for liquidity support and launched new programs.

Both the **KfW Entrepreneur Loan** (for existing enterprises) and the **ERP Start-up Loan Universal** (for young enterprises under five years of age) provide for risk coverage of up to 80% for working capital loans of up to € 200 million. This is intended to stimulate the willingness of the house banks to grant loans. For larger companies (**KfW Kredit für Wachstum**), too, the previous programme will be increased from € 2 billion to € 5 billion and will also be made available without restrictions for certain areas. So far, this programme has only been available for innovation and digitisation

Note: KfW loans cannot be applied for directly. Applications must be made through your house bank.

In this area, risk assumption has been increased from 50 % to 70 %.

In the case of the guarantee banks, the maximum guarantee amount has been doubled to € 2.5 million. The Federal Government increases its risk share by 10 %. In order to be able to make faster decisions in this respect, the guarantee banks can make decisions up to an amount of € 250,000 independently and within three days.

The **Large Guarantee Scheme**, previously reserved for structurally weak regions, will be opened to all regions. A guarantee requirement of € 50 million with a guarantee rate of up to 80 % is envisaged here. Further special programmes have been submitted to the EU Commission for approval. Based on the statements made there, it is assumed that they will be approved in the near future.

Other assistance programmes

All the Bundesländer (Federal German states) have announced that they will set up regional aid programmes through their Landesbürgschaftsbanken (Federal State guarantee banks) and in particular grant generous loans. Information is available on the respective websites. Please do not hesitate to contact us for advice. Your house bank will also support you accordingly.

Emergency aid for micro-enterprises and self-employed persons

On 23.03.2020, the Federal Cabinet decided that a special fund of €50 billion should be made available for micro-enterprises. The EU defines micro-enterprises as companies with fewer than ten employees and whose turnover or annual balance sheet does not exceed two million euros. The emergency aid is intended to provide such companies and self-employed persons with short-term liquidity by means of grants and loans. The aid is to be used to pay current

operating costs, such as rent, instalments for loans and leasing instalments.

The emergency aid programme includes the following measures:

- Companies with up to five employees receive a one-off grant of up to €9,000 for three months.
- Companies with up to ten employees receive a one-off grant of up to €15,000 for three months.
- If the landlord reduces the rent by at least 20%, an unused subsidy can be used for two more months.

NB: The use of grants must be proven retrospectively. They serve to overcome acute liquidity shortages. Applications are approved by the federal states or municipalities.

Help for artists and creative people

The Federal Government plans to provide quick and easy access to social security for self-employed artists and creative workers.

The programme comprises the following measures:

- Extension of basic social security for jobseekers to cover their living costs and rent
- Participation in the programme "Emergency aid for micro-enterprises and sole traders
- Reduction of insurance contributions to the social insurance for artists
- Compensation for bans on activities due to the corona pandemic (§ 56 IfSG)
- Deferral of tax liabilities
- Suspension of the obligation to file for insolvency
- Protection against termination of tenancies (studio)
- legal deferral regulation for loans
- Examination of the waiver of recovery of cultural funding.

Reference is also made to social pots of the Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (GEMA) and the collecting societies.

Note: Further programs are planned. We will inform you as soon as something changes here. If you have any questions about one of the aid measures or want to make use of them, please contact us.

1.3 EU aid package

Business support packages will also come from the European side. European banking supervision will make use of the existing leeway so that banks can continue to provide liquidity to the economy. In addition, support programmes will also be launched from the European side. For example,

the President of the European Commission referred to the **investment initiative to tackle the Corona crisis**, which will amount to a total of €25 billion.

2 Insolvency law

With all state aid, it will not be possible to avoid that companies or self-employed persons get into financial difficulties, so that insolvency is imminent. Here, the Federal Ministry of Justice and Consumer Protection is preparing a legal regulation to suspend the obligation to file for insolvency.

Note: For legal entities, the Insolvency Code currently provides for a period of three weeks within which the request to open proceedings must be filed.

The model is based on regulations that were adopted on the occasion of the flood disasters of 2002, 2013 and 2016. At that time, the application deadline was extended. The background to the regulation is that it can happen that state aid is not granted or is not paid out on time. An extension of the application deadlines is intended to help here.

There are two conditions for the suspension of the obligation to file for insolvency:

1. The reason for insolvency is based on the effects of the Corona crisis.
2. There are reasonable prospects for rehabilitation due to the application for public aid or serious financing or rehabilitation negotiations.

Note: The suspension should initially apply until 30.09.2020. In addition, an ordinance authorization for the Ministry until 31.03.2021 is to be proposed.

You must prove by submitting documents that the financial problems of your company are directly related to the Corona crisis. Furthermore, you should already prepare a restructuring concept. You need this already for the application for aid. Please contact us here if you have any questions or need support.

The area of insolvency in particular has a high level of liability. If the opening of insolvency proceedings is requested too late, this can also lead to personal liability. In addition, a "delay in filing for insolvency" can result in criminal law consequences in the form of fines or imprisonment.

Note: Associations and foundations are excluded from the above-mentioned consequences. However, the members of the board are jointly and severally liable for the damage resulting from the delay in filing the application.

3 Outlook

The corona crisis has enormous dynamics, not only from a medical and health perspective. There is also so much movement in the areas of law and taxes that it is hardly possible for laypeople to keep an overview. We assume that further aid measures will come from the federal and state governments. There is also still a lot to be expected from the European side. These measures not only concern tax aspects, but also cover other areas of law, for example the treatment of rent arrears.

Note: We always keep you up to date and are ready to master this difficult time together with you. So do not hesitate to contact us!

If the (financial) situation of your company changes due to the SARS-CoV-2 pandemic or other acute disease waves, **please contact us. Our "ACCONSIS Corona Task Force" will be happy to advise you.**

Yours sincerely,
Your ACCONSIS Team