



International Tax Measures in Response to COVID-19

Europe and the Americas

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Coverage: Europe and the Americas



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Update on Corona tax measures in the USA

Stimulus Packages

» **Paycheck Protection Program (“PPP”) included in the CARES Act**

- Eligible borrowers: (i) Businesses with no more than 500 employees, or (ii) businesses qualified under SBA eligibility size standards.
- Loan amount: Maximum amount is lesser of (i) \$10 million, or (ii) average monthly payroll costs (including benefits) multiplied by 2.5.
- Loan forgiveness: Loan proceeds used for eligible payroll, benefits, rent, utilities, and mortgage interest costs incurred within an 8-week period of PPP loan origination date may be forgivable. Any amount forgiven is not treated as COD income and excluded from gross taxable income.
 - Loan forgiveness may be disallowed if employee headcount is reduced or salaries are reduced by more than 25%.
- Loan terms: Interest rate of not more than 0.5% and non-forgivable portion of loan due no later than 2 years from origination.

» **PPP Uncertainties Awaiting Small Business Administration (“SBA”) Guidance**

- The definition of payroll costs may exclude all compensation of employees who earn in excess of \$100,000. Recent guidance from the SBA appears to allow compensation of employees up to \$100,000.
- The applicant may have to aggregate the number of employees of its owner and/or other commonly-controlled businesses.
 - Applicants that are part of a multinational corporation will most likely need to aggregate the other commonly-controlled subsidiaries of the parent corporation for purposes of the 500 employee test.
 - Private equity (“PE”) and venture capital (“VC”) owned applicants will most likely need to aggregate the other commonly-controlled portfolio companies of the PE or VC fund for purposes of the 500 employee test.
 - Unclear as to the treatment of foreign-owned U.S. businesses applying for a PPP loan.

Update on Corona tax measures in the USA

Business Tax Provisions in the CARES Act

- » **Employer Payroll Tax Deferral**: Defers employer share of FICA taxes incurred from March 27, 2020 through December 31, 2020. Deferred amounts are due in two equal installments on December 31, 2021 and December 31, 2022. Unavailable if PPP loan is obtained.
- » **Employer Payroll Tax Credit**: Provides a refundable credit of FICA taxes if businesses have shown a 50% decline in revenue compared to prior year. Unavailable if PPP loan is obtained.
- » **Net Operating Loss (“NOL”) Rule Modification**: Allows NOLs arising in a taxable year 2018, 2019, or 2020 to be carried back 5 years. NOLs generated in taxable years beginning on or after January 1, 2018 can now offset 100% of taxable income for 2019 and 2020 (rather than only up to 80% of taxable income).
- » **Business Interest Expense Rule Modification**: Allows business interest expense deductions for tax years 2019 and 2020 up to 50% of adjusted taxable income (which is comparable to EBITDA). Businesses can elect to use 2019 Adjusted Taxable Income (“ATI”) for tax year 2020.
- » **Expansion of Applicable Property Eligible for Accelerated Depreciation**: Retroactively includes “qualified improvement property” to the asset list eligible for immediate 100% depreciation upon the asset being placed in service.
- » **Immediate Refund of Carryforward of Corporate Alternative Minimum Tax (“AMT”) Credits**: Accelerates the refund of any carryforward of AMT tax credits.

Update on Corona tax measures in Brazil

Corporate Income Tax

- » Controversy on the possibility of extending the deadline to pay federal taxes for 3 months
- » 3-month deadline extension to submit federal tax returns

VAT

- » Zero rate of Import Duty and Excise Tax on certain products
- » States and Municipalities: suspension of deadlines to file defenses on administrative proceedings and tax assessment notices; extension of the deadlines to comply with ancillary obligations related to the State-VAT (ICMS); ICMS exemptions and rate reductions for certain products; and postponement of deadlines to pay the ICMS

Financial Measures

- » Suspension of debt collection and facilitation of the renegotiation of tax debts
- » Postponement of the adjustment of the price of medicine
- » Special measures for airlines
- » Special loan conditions provided by public financial institutions

Additional Information

- » Postponement of the deadline for submission of the Statement of Brazilian Capitals Abroad (DCBE)
- » Suspension of payment of contributions to the Unemployment Severance Fund (FGTS)
- » Reduction of company contributions to “S system”
- » 3-month validity extension for federal tax certificates
- » Several labor measures (anticipation of holidays, compensatory time off, etc.)

Update on Corona tax measures in Argentina

Federal Taxes

- » 3-month deadline extension (up to June 30) to adopt the regime for the regularization of tax and customs debts and for social security resources. The regime includes the pardoning of fines and interest exclusively for those taxpayers that are registered as Micro, Small or Medium-Sized Enterprises

Personal Assets Tax

- » 4-week (up to April 30) deadline extension to repatriate foreign funds, or gains derived from the disposal of financial assets located abroad, representing at least 5% of the whole value of the assets located abroad, in order to be exempted from the increased rates established for the these assets

Banking and Finance

- » Financial institutions and exchange houses can operate remotely among themselves and with their clients in the FX market
- » Central Bank admits the remote operation of the stock exchanges and futures markets authorized by the Argentine Securities Commission (CNV), Caja de Valores S.A. and the capital market agents registered with the CNV

Additional Information

- » From March 20th to April 12th of 2020, all workers must refrain from attending their workplaces, except for essential activities and services (movement limited to the strict compliance of those activities and services)

Update on Corona tax measures in Colombia

Corporate Income Tax

- » 1-week deadline extension for the submission of Income Tax assessments and information returns on assets and rights held abroad
- » 2-month deadline extension on the Income Tax payment for large taxpayers that develop commercial air transport activities for passengers, hotel services, theatrical activities and live music shows

VAT

- » 2-month deadline extension on the VAT and Consumption Tax payment for taxpayers who carry out commercial air transport activities for passengers, hotel and theater services, live music shows, food and alcoholic beverage vendors, travel agencies and tour operators
- » VAT exclusion for commissions on guarantees granted by the National Guarantee Fund for credits destined to deal with the consequences generated by Covid-19

Financial Measures

- » Central Bank's reduction of the intervention interest rate by half a percentage point to 3.75%.
- » Central Bank's expansion of the quota of REPOS liquidity auctions with private debt securities

Additional Information

- » Mayors and governors are empowered to reduce the tax rates of their territorial entities, until the emergency is ceased
- » 2-week deadline extension for the submission of exogenous information before the National Tax Authority.
- » 2-week suspension on all terms regarding the administrative and jurisdictional procedures concerning tax, customs and foreign exchange matters
- » 1-month validity extension for permits, authorizations, certificates and licenses

Update on Corona tax measures in the UK

Corporate Income Tax

- » "Time to Pay" arrangements

VAT

- » Payments due between 20 March and 30 June 2020 may be deferred until 31 March 2021

Financial Measures

- » Job Retention Scheme to fund up to 80% (up to £2,500 per month) of wages paid to furloughed employees for the period 1 March to 30 June 2020
- » Self-employment income support providing a taxable grant of 80% of trading profits (up to £2,500) per month for 3 months
- » Support for small and medium employers paying statutory sick pay
- » Coronavirus Business Interruption Loan Scheme (small and medium businesses)
- » COVID-18 Corporate Financing Facility (larger businesses)
- » Business rates holiday for retail, hospitality and leisure businesses and cash grants for some
- » Small Business Grant Scheme providing cash grants of £10,000 to eligible businesses

Update on Corona tax measures in France

Corporate Income Tax

- » Automatic 3- month deferral for payment of CIT instalment already due;
- » Reduction of direct tax can be granted only in the case of specific difficulties that a deferral of payment will not be enough to overcome;
- » Possible deferral of the payment of the CIT tax balance to be paid by Mid-May for FY 2019 (also for CVAE);
- » >Early refunds of tax credits before the filing of CIT tax returns in May.

VAT

- » It is not possible to request a deferral of payment or a reduction for VAT due;
- » The only measure taken is an immediate tax refund of VAT credits.

Update on Corona tax measures in France

Financial Measures

- » 300 billion euros of banks loans with the State guarantee.

Social measures

- » Partial unemployment : Payment of indemnities in case of partial unemployment. The State will pay 70% of gross wages (84% of net wages) till 4.5 the minimum wage (1.521 for a month X 4.5 = 6.844€). No payroll taxes will be due on these wages;
- » Deferment of payroll taxes : Employer with a due date on the 5th or the 15th of the month are allowed to defer oh their employer and employee contribution for 15th March and for 5th April deadlines. The Date of payment of theses contributions may be postponed for up to 3 months. No penalty will be applied.

Update on Corona tax measures in the Netherlands

Corporate Income Tax

- » Preliminary CIT assessment for 2020 can be reduced (cash)
- » Impairments or provisions in 2020
 - › Tax books in NL differ from accounting principles
 - › Already in 2019 (?)
- » Preliminary carry back tax loss 2020 to 2019 (of 80%)

VAT

- » VAT payments can be postponed with three months (plus additional three months)
- » No tax interest (0.01%) and no penalties for late payment
- » Same goes for wage tax payments
- » Change periodicity VAT filings
 - › In case of refund position: from quarterly to monthly
 - › In case of paying position: from monthly to quarterly
- » VAT refund on supplies for homework office (e.g. screens)

Update on Corona tax measures in the Netherlands

Financial Measures

- » Employment emergency fund
 - › Financial support to employers
 - › Compensation for wages
 - › Only in case drop in (expected) revenue of 20% or more
 - › Commitment not to dismiss employees
 - › Compensation up to 90% of wages
 - › Application valid for three months (extension with another three months)
 - » Government to guarantee credit lines with banks
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Other

- » Substance requirements for holding and finance companies
 - › Board meetings physically held in NL
- » Effects on transfer pricing models
 - › E.g. can we substantiate losses for mere routine entities (?)
 - › Review intercompany agreements

Update on Corona tax measures in Italy

Corporate Income Tax

- » Special regime allowing to set off DTA against any tax and social security contributions payments to the extent the taxpayer provides for the disposal of “outstanding receivables” (i.e. unpaid after 90 days); DTA eligible for such set off are the ones deriving from (i) tax losses carried forward (taken at 100%) and/or surplus of notional interest remuneration (i.e. “ACE”)
- » Tax credit (50%) for the expenses incurred during 2020 related to the sanitation of workplaces and work instruments, up to of Euro 20.000,00

VAT

- » For residents (companies having their tax residence, registered office or operating office in Italy) the terms are postponed as follows:
 - for VAT payments to public administrations the postponed data depends on the category of taxpayer with specific delays for the most impacted sectors
 - VAT returns and communication of other periodic VAT settlements are postponed to 30.06.2020
- » Suspension of VAT obligations do not apply for non-residents

Update on Corona tax measures in Italy

Financial Measures

- » Measures to provide financial and liquidity support to companies through the banking system:
 - CDP S.p.A. (Italian national institution) is authorized, operating through the banks, to grant liquidity (by granting guarantees in loans) to companies that have suffered a decrease in turnover due to the Covid-19 emergency
 - the State will guarantee up to 80% of the commitments taken by CDP S.p.A.

Other

- » Tax incentives for cash or in kind donations supporting the Covid-19 epidemiological emergency. The donation is fully deductible for IRES and IRAP purposes in the fiscal year of payment
- » Cash bonus (Euro 100) per employee (working in both the private and public sectors) having a total annual income not higher than Euro 40.000 and carrying on their activity in their ordinary workplace during March 2020
- » Redundancy fund procedure (so called “*cassa integrazione*”) for employees for a max duration of 9 weeks

Update on Corona tax measures in other European Countries (examples)

Corporate Income Tax

- » **Advance payments on CIT and income tax for 2020 can be reduced in part or in total**
 - Austria, Belgium, Czech Republic (refund of pre-payments), Denmark, Germany, Lithuania, Luxembourg, Norway, Portugal (postponement of payments), Romania, Slovakia, Spain (only SMEs), Switzerland (depending on canton)
- » **Extended deadline for filing tax returns**
 - Austria, Belgium, Czech Republic, Denmark, Latvia, Lithuania, Luxembourg, Norway, Portugal, Slovakia, Switzerland (depending on canton)
- » **Loss carry-back in 2019**
 - Czech Republic (and in 2018), Norway (and in 2018), Poland (max. 5m PLN = ca. 1m EUR), Slovakia

GST/VAT

- » **Payment of outstanding VAT amounts can be deferred or the taxpayer can apply for payment in instalments**
 - Austria, Belgium, Denmark, Germany, Lithuania, Norway, Poland, Portugal, Romania, Slovakia, Sweden (refund)
- » **Extended deadline for submission of the annual tax return for VAT or exceeding deadlines does not trigger any penalties**
 - Belgium, Denmark, Ireland, Germany, Latvia, Lithuania, Luxembourg, Norway, Romania, Slovakia, Sweden
- » **No extension of the time for filing VAT returns yet**
 - Czech Republic, Estonia, Finland, Greece, Spain

Update on Corona tax measures in other European Countries (examples)

Financial Measures

- » **Rental of business premises can be reduced for vulnerable sectors or if the business has been locked down according to a statutory order**
 - Austria, Greece, Hungary (+ ban on termination of lease agreements), Luxembourg, Sweden
- » **Possibilities to postpone payments or suspension of the repayment of loan principal**
 - Greece, Hungary

Social security contributions

- » **Payment of social security contributions can be delayed without interest or can be reduced**
 - Austria, Germany, Greece, Hungary (certain industries), Norway, Poland, Portugal, Slovakia, Sweden, Switzerland

Other measures

- » Poland: MDR – for domestic reportable transaction → new start of the reporting obligation by 1 July 2020
- » Poland: extended deadlines for TP documentation and CbCR reporting
- » LUX, FR, BE: relaxation of treaty measures with regard of commuting workers now working at home

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