COVID-19: Options to waive or defer tax in the corona crisis

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Companies affected by the corona crisis can apply for various forms of relief on their tax liabilities.

Key takeaways

- **Payment relief mechanisms (deferral of payment, payment in instalments) or tax waivers are available for corporate income tax and VAT.**
- **Payment relief is available interest-free from March 2020 until (initially) 31 December 2020.**
- **In an ordinance expected towards the end of March, the Swiss government will provide regulations on whether simplified relief mechanisms are possible.**
- **In addition, there is currently a nationwide suspension of debt enforcement until 19 April 2020, which applies even if no formal payment deferral was granted.**

What tax relief options are available to companies unable to pay their tax bill?

Companies can apply for tax deferral (deferral of payment, payment in instalments) or a tax waiver. Cantonal practice needs to be considered for cantonal and municipal taxes.

The Swiss government has announced that during the corona crisis, companies may benefit from tax deferral in an unbureaucratic way. Details of the measures concerning this tax relief will be announced in an ordinance, which is expected to be published towards the end of March.

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What are the prerequisites for postponing payment of corporate income tax (deferral of payment, payment in instalments) under current law?

Tax relief (deferral of payment, payment in instalments) will usually only be granted if the company is experiencing a liquidity bottleneck rendering timely settlement of the tax liability particularly onerous.

> Example: A company does still hold assets but would only be able to dispose of these quickly at disadvantageous conditions.

In practice, permission to delay payment is granted for a maximum of two years. Payment in instalments can be agreed over a longer period.

To take advantage of a tax relief mechanism, the company must apply to the tax authorities. The application should be backed up by documents setting out the company's position in terms of liquidity, sales and debt, as well as a list of creditors if applicable.

In an ordinance expected towards the end of March, the Swiss government will provide regulations on whether simplified relief mechanisms are possible.

What are the prerequisites for a waiver of corporate income tax under current law?

Tax waivers are generally only granted to companies requiring financial restructuring to the extent that the company's ability to continue as a going concern and maintain jobs are in jeopardy. In addition, the tax waiver should directly benefit the company, and not its creditors. This is why the tax authorities have, in practice until now, only offered tax waivers at a maximum percentage of the amount of claims waived by other creditors.

Practice to date has also shown that a tax waiver was only offered if the final assessment of corporate income tax had been issued. As a result, it is not possible to get a tax waiver for the current year. Various cantons are currently in the process of adapting their practice in response to the corona crisis. In line with discussions in other countries, it is conceivable, for example, that tax receivables relating to the period of the coronavirus pandemic will be waived in their entirety.

What are the prerequisites for postponing payment of VAT (deferral of tax payment, payment in instalments) under current law?

In Switzerland, VAT returns generally have to be filed quarterly, with the VAT liability to the tax authorities payable 60 days after that.

Postponing VAT payment is possible if the company is experiencing a liquidity bottleneck. If that bottleneck is anticipated to be temporary, postponement is possible in the form of an extended payment deadline for the VAT liability. Practice shows that an extension of up to three months is usually granted readily.

If the liquidity bottleneck is expected to last for a longer period, the VAT authorities will seek to agree payment in instalments.

Is a waiver also possible for VAT?

Due to the specific way that VAT works, a waiver is not always necessary. The VAT liability may cease to exist anyway for other reasons.

> For example: A company has invoiced its customers. The customers are experiencing difficulties meeting their payment obligations. If the company considers these receivables to be bad debts and therefore has to write them down, the company can then correct the corresponding previous VAT liability.

Actual tax waivers by the VAT authorities have only been possible in practice in certain special cases that are governed by law. In such cases, however, practice shows that the prerequisites for postponing payment, as described above, are comparatively generous.

Does late payment interest accrue during the postponement period (deferral, instalments)?

Generally, late payment interest prescribed by law remains payable during a postponement period. Late payment interest is 3%-6% (depending on the canton) on corporate income tax, and 4% on VAT.

Due to the corona crisis, the Swiss government has decided that companies will not have to pay interest on arrears during the payment deferral period. As a result, no late payment interest will be charged on corporate income taxes from 1 March 2020 until 31 December 2020 and on VAT from 21 March 2020 until 31 December 2020.

The details of this measure will be announced in an ordinance, which is expected to be published towards the end of March. Further, these measures only relate to federal taxes. However, it is expected that cantonal tax authorities will also announce similar measures in the near future.

Need for action?

If a company is concerned about liquidity bottlenecks, a forward-looking planning approach is essential. This includes assessing payment relief on tax liabilities. The Swiss tax authorities have adapted their practice in light of the corona crisis A corresponding ordinance is expected be published towards the end of March. Pestalozzi will keep you updated on breaking news on tax payment relief mechanisms.

No legal or tax advice

This legal update provides a high-level overview and does not claim to be comprehensive. It does not represent legal or tax advice. If you have any questions relating to this legal update or

would like to have advice concerning your particular circumstances, please get in touch with your contact at Pestalozzi Attorneys at Law Ltd. or one of the contact persons mentioned in this Legal Update.

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