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German Tax and Legal News

MOF publishes draft of fourth COVID-19 tax aid bill

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

On 3 February 2022, the German Ministry of Finance (MOF) published a draft of the "Fourth bill on tax relief measures relating to the COVID-19 crisis" that includes several tax measures to aid taxpayers during the ongoing pandemic. The draft bill is the first-tax related draft bill that has been published since the new German government has been in place, following the federal elections in September 2021 (see GTLN dated 26 November 2021). The most important measures that are proposed are the following:

- The increased loss carryback amount of EUR 10 million (for individual filers and businesses) or EUR 20 million (for joint filers) that currently is available for losses incurred in 2020 and 2021 would be extended to apply for losses incurred in 2022 and 2023 as well; the previous loss carryback amounts available of EUR 1 million (for individual filers and corporations) or EUR 2 million (for joint filers) would apply for losses incurred as from 2024. In addition, the existing loss carryback period of one year would be permanently extended to two years, as from 2022. It should be noted that for corporations, a 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, the accelerated depreciation method that was introduced in 2020 for assets acquired in 2020 and 2021 would be extended to apply for assets that are acquired in 2022. The depreciation method for such assets is a declining-balance method and the applicable depreciation percentages are 2.5 times the regular straight-line depreciation percentages under the ordinary rules, capped at a 25% annual percentage.
- For certain healthcare workers, there would be an option for the employer to pay a "Corona bonus" on a tax-free basis of up to EUR 3,000 per employee, in addition to the regular wage payments, until 31 December 2022.
- The tax-exempt allowance for compensation for reduced working hours would be extended retroactively for another three months, until the end of March 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)) would be extended by another year if the related tax-free reserve otherwise would be eliminated in fiscal year 2022 (generally, a four-year reinvestment period applies). Another one-year extension also would 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 working-from-home expenses ("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, would be extended for 2022.
- The standard income tax return filing deadlines for the annual income tax returns for 2020, 2021, and 2022 would be extended as follows:
  o 2020: If the tax return is prepared by a certified tax advisor, the (already extended) filing deadline of 31 May 2022 would 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 would not be retroactively extended.
  o 2021: If the tax return is prepared by a certified tax advisor, the regular filing deadline of 28 February 2023 would be extended to 30 June 2023. If the tax return is not prepared by a certified tax advisor, the regular filing deadline 31 July 2022 would be extended to 30 September 2022.
  o 2022: If the tax return is prepared by a certified tax advisor, the regular filing deadline of 28 February 2024 would be extended to 30 April 2024. If the tax return is not prepared by a certified tax advisor, the regular filing deadline of 31 July 2023

would be extended to 31 August 2023.
- The separate tax return filing deadlines for agriculture and forestry businesses would be extended as well.
- To be aligned with the proposed extended tax return filing deadlines, the starting date for the accrual of interest for tax payments would be extended for the years 2020 to 2022. 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 currently 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 20 August 2021).

The draft bill must be approved by the government (scheduled for 16 February 2022) and then must go through the legislative process and be approved by the upper and lower houses of the German parliament.
