

# NKF Client News

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## Current status of indirect tax measures to mitigate the economic impact of the spread of coronavirus

### 1. Overview

On 20 March 2020, the Federal Council approved a comprehensive package of measures amounting to CHF 32 billion for mitigating the economic consequences of the spread of the coronavirus. After the announcement of the grant of loans with joint and several guarantees by the Swiss Confederation amounting to CHF 10 billion on 13 February 2020, and a further CHF 20 billion decided on 25 March 2020, more than CHF 60 billion is now available to provide targeted assistance to affected sectors and individuals if necessary.

Through the Ordinance on the Temporary Waiver of Interest in the Event of Late Payment of Taxes, Incentive Levies and Customs Duties and the Waiver of Loan Refunds by the Swiss Society for Hotel Credit, which entered into force on 21 March 2020, the Federal Council also created the legal basis (SR 641.207.2) for reducing the economic consequences of the spread of the coronavirus in the area of taxes.

In general, all authorities have communicated a strong desire that the measures will be implemented swiftly and applied in an uncomplicated manner in order to improve the economic situation in Switzerland. The following contains an overview on the current status of the measures in the area of indirect taxes.

### 2. Value Added Tax ("VAT")

#### 2.1 Cash flow enhancing measures

Suspension of late payment interest (temporary default interest rate of 0%):

No default interest shall be charged for late payment of VAT claims between 20 March 2020 and 31 December 2020. This regulation also applies to other special excise taxes and to incentive taxes. This de facto non-payment of interest on arrears (the interest rate on arrears is 0%) also applies to such VAT claims that became due before 20 March 2020.

Foreign taxpayers who are entered in the VAT register also benefit from this liquidity measure.

The applicable VAT rates (7.7%, 3.7% and 2.5%) and the interest rate on remuneration of 4% are not affected.

Deferment of VAT reporting and settlement deadlines:

In order to bridge liquidity bottlenecks, payment deferrals by means of an extension of the reporting and settlement period can be requested. Such an extension of the deadline by three months can - as has already been provided for in the case of the extension of the settlement period - be applied for

on the website of the Federal Tax Authorities ("FTA") or on the FTA SuisseTAX platform without needing to provide reasons, and is free of charge.

Any further deferment of payments is subject to confirmation by the FTA upon justified request being submitted by post to the FTA.

If taxable persons fail to submit a VAT declaration by the due date (or the granted extension of the deadline), the FTA will continue to send reminders and the VAT due will be estimated by the FTA. Moreover, the FTA continues to have the right to impose fines.

Early refund of input VAT credits:

In order to improve liquidity for taxpayers, the FTA will also undertake accelerated assessments and reviews of refund applications regarding input VAT credits and will process disbursements without delay.

## 2.2 Suspension of deadlines regarding legal appeals

Based on the Ordinance on the Standstill of Time Limits in Civil and Administrative Proceedings for the Maintenance of Justice in Connection with Coronavirus (SR 173.110.4), the time limits from 21 March to 19 April 2020 are suspended for all pending VAT proceedings. The standstill affects all official, judicial and statutory deadlines including but not limited to pending matters before the FTA, the Federal Administrative Tribunal and the Swiss Supreme Court.

Beyond that, the FTA does not extend any statutory time limits. However, in case taxpayers are requesting the restoration of deadlines the FTA will make every attempt to find a workable solution for the taxpayer.

The same applies to the deadlines to be met in the context of the input VAT refund procedure. Such applications must still be submitted within six months after the end of the calendar year in which the invoice (justifying the claim for refund) for the respective service (delivery or service) was issued.

## 2.3 Operational measurements introduced by the FTA

VAT Inspections:

On-site VAT inspection activities are suspended until further notice due to the potential risk of infection for both the inspector and the persons representing the company. Only in exceptional cases, i.e. if (i) the conditions on-site at the company are known, (ii) the requirements of the Federal Bureau of Health are complied with, and (iii) both parties consider that an inspection would be effective, would an on-site inspection be possible. Alternatively, the documents could be submitted electronically to the FTA electronically to the extent that a remote VAT inspection is possible.

Maintaining the operations of the FTA:

Given the unclear duration of the current "extraordinary situation", it is obvious that the FTA cannot entirely suspend its operations. Instead, it will continue to issue decrees or decisions that trigger statutory time limits. The FTA will also continue to send requests for payments, reminders and interest calculations (taking into account the applicable interest rates of 0%) as well as assessment orders for completed VAT inspections. It is also still possible to submit ruling requests.

Due to the predominant home office activities of the FTA employees, it can be assumed that their availability by telephone will be reduced in some cases. It is therefore recommended to contact them by e-mail (see [The FTA > Contact FTA](#)).

### 3. Support measures in relation to customs duties and trade in goods

#### 3.1 Cash-flow enhancing measures in the area of customs duties

Reduction of the late payment interest rate to 0%:

Federal Customs Authorities have waived the levying of default interest rates for late payments of customs duties between 20 March 2020 and 31 December 2020.

Suspension of reminders for outstanding customs payments:

Furthermore, the FCA has stopped issuing reminders for a period of 60 days, i.e. until 20 May 2020. The FCA will decide on a possible extension in good time before the expiry date.

Although this does not affect the payment deadlines per se, it is possible to apply for payment relief (deferment, postponement, payment by instalments).

The extension payment deadlines are granted for 90 days from the date of invoice. In individual cases, an extension of up to 180 days/6 months from the date of invoice can be authorized. Such deferments also apply to new invoices that are issued on an ongoing basis.

The application (free of charge) with a proposal of the timeframe or instalments should be submitted to the FCA by email ([info-finanzen@ezv.admin.ch](mailto:info-finanzen@ezv.admin.ch)). Applicants must complete the form available at the following [link](#):

Measures relating to the Customs Suspension Account:

If an importer wishes to reduce the security (cash deposit) for a Customs Suspension Account due to reduced imports leading to an excess cover, a corresponding application for such a reimbursement should be submitted to [info-finanzen@ezv.admin.ch](mailto:info-finanzen@ezv.admin.ch).

However, a refund is only possible if all previous and future invoices are paid within the regular timeframes (customs duties 5 days, VAT 60 days) and no payment facility as described above has been granted.

Furthermore, the FCA has also waived the request for additional security in case of insufficient coverage.

#### 3.2 Administrative simplifications

Communication with the FCA:

For the sake of seamless and efficient continuance of the free circulation of goods in the current situation, the FCA prefer electronic communication. This applies to all areas, covering the submission of documents for customs declarations, formal rulings, inspections of goods as well as communication with the customs office concerning evaluations, follow-up questions, complaints and applications for provisional assessments.

Formal requirements for submitted documents:

However, documents that must be certified by customs, such as the ATA carnet, must still be presented to the customs office in their original form. Special rules apply with regard to the presentation of proofs of origin; see our comments in this respect below.

The formal requirements of the Administrative Procedure Act also continue to apply to complaints.

Acknowledgement of Preferential Origin:

Administrative simplifications are also granted in relation to the proof of origin:

- Digitally issued movement certificates or certificates of origin (digitally stamped/signed), or copies thereof, can be used even where the free trade agreement with the issuing country does not provide for this per se.
- In addition, copies of traditionally issued movement certificates or certificates of origin are considered valid proofs of origin when imported into Switzerland.

Regardless of this provision, the FCA reserves the right to carry out verification of such proofs of origin within the usual framework.

Suspension of deadlines for legal proceedings in tax matters:

Based on the Ordinance on the Suspension of Deadlines in Civil and Administrative Proceedings for the Perpetuation of Justice in Connection with Coronavirus (SR 173.110.4), a suspension of deadlines also applies to pending proceedings with the FCA from 21 March 2020 to 19 April 2020.

Simplifications for Authorized Consignees:

Authorized Consignees ("AC") have to declare goods that are being imported and placed under customs control at the approved domicile to a subsequent customs procedure with the FCA within 30 days. However, it has been decided to suspend the filing of customs declarations for AC in the period from 1 April to 30 June 2020.

### 3.3 Operational Adjustments of the FCA

Closure of Border Crossings:

As a result of the amendment to COVID-19 Ordinance-2 (SR 818.101.24) on 1 April 2020, the FCA is entitled to independently order and implement the closure of subordinate small terrestrial border crossings for passenger transport until further notice. The closed border crossings are published on the [FCA's website](#). If a violation occurs, the FCA is also authorized to impose fines. If these are not paid immediately, criminal prosecution may follow.

e-dec - emergency procedure:

The FCA provides for adjustments in the area of the e-dec emergency procedure (IT-platform for cargo processing):

- In the event of failure of the e-dec system, the participant should, until further notice, send the control sheet in course of the trouble shooting together with the accompanying documents by e-mail to the competent customs office.
- The customs authority checks the documents received, decides upon the inspection and provides feedback to the participant by e-mail.
- After e-dec is operational again, the participant informs the customs office about the successfully transmitted customs declarations.
- The details (e-mail address, subject, etc.) are arranged directly with the customs office.

### 3.4 Facilitation measurements regarding the trade in goods

Creation of priority lanes, so-called "Green Lanes":

On the basis of the amended ordinance, the FCA is entitled to introduce priority lanes ("Green Lanes") to be set up for road traffic at border crossing. These are intended for important goods that serve to ensure that Switzerland is kept supplied with essential goods and services. These include medical goods, foodstuffs including cereals, animal feed and fertilizers, goods in the mineral oil/fuel sector, and letter and parcel services in accordance with the Universal Postal Convention. For other goods, the FCA should be contacted on a case-by-case basis for assessing whether the conditions for use of the "Green Lanes" are met.

In addition, Green Lanes should also be available for use by a dedicated group of professionals (such as commuters working in the health sector and blue-light organizations like police and ambulances). Their service badges must be presented for this purpose.

Just like the closed border crossings, the Green Lanes are also published on the [FCA website](#). The Green Lanes can only be used by cars and trucks upon approval. Hence, a [form](#) must be submitted. In addition, a special [leaflet on the use of Green Lanes and the extension of business hours for customs clearance](#) has been published.

Import of protective clothing/protective material ("PPE"):

Due to the very rapid spread of the coronavirus SARS-CoV-2, the need for PPE in Switzerland has increased dramatically. The availability of masks, examination gloves, protective goggles, swaddling clothes, etc. in sufficient quantity and quality is an indispensable prerequisite for preventing the further spread of COVID-19 and protecting the health of medical staff. Since these medical goods are not produced in Switzerland in sufficient quantities, the availability of PPE shall be enhanced by further exemption from Customs Duties.

Therefore, the Federal Council decided on 8 April 2020 to temporarily suspend customs duties on imports of important medical goods, including but not limited to PPE, for which the normal customs duty rate is not already zero, with effect from 10 April 2020 until 9 October 2020.

This measure will make imports of these goods more cost-effective and reduce the administrative burden in relation to the import clearance. Thus, importers will not be required to provide proof of origin for duty-free imports in accordance with free trade agreements. In addition, private importers will be treated on an equal footing with the Federal and Cantonal Civil Protection Authorities, who can already import PPE duty-free.

Nevertheless, the import tax must still be paid.

For the sake of completeness, it should be mentioned in this context that the Federal Council has decided to introduce a licensing requirement for the export of medical protective equipment which is largely in line with the measures adopted by the EU.

The production chains and distribution networks are highly integrated within Europe. This applies in particular to Switzerland, the EU Member States, the United Kingdom, Norway, Iceland and Liechtenstein. The current shortage of protective equipment exists in virtually all of these countries. In view of the close cooperation with the EU and the unilateral exemption of the EFTA states from their export licensing requirements, exports of PPE to EU member states and EFTA states are also permitted without a license, provided that these countries also exempt Switzerland from a corresponding licensing requirement.

If PPE is to be supplied from Switzerland to other COVID-19 affected countries outside of the EU and EFTA, these exports are subject to the export permit issued by SECO. Export applications must be

submitted via the ELIC electronic export control system ([www.elic.admin.ch](http://www.elic.admin.ch)). As a rule, a decision is made within five days.

If you have further questions or comments on this topic, please reach out to your regular NKF contact.

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