

NKF Client News

7 MAY 2020

Current status of measures affecting liquidity regarding direct federal tax, withholding tax, stamp duties and social insurance to cushion the economic consequences of the spread of the coronavirus

1. Measures at federal level

1.1 Overview

To cushion the economic consequences of the spread of the coronavirus, the Swiss Federal Council approved a comprehensive package of measures worth CHF 32 billion on 20 March 2020. With the CHF 10 billion granted on 13 February 2020, and the decision on 25 March 2020 to grant CHF 20 billion in loans with joint and several guarantees from the Confederation, a total of more than CHF 60 billion is now available to provide targeted assistance to affected sectors and individuals, if necessary.

Through the ordinance that came into force on 21 March 2020 on the temporary waiver of default interest in the event of late payment of taxes, incentive taxes and customs duties, and the waiver of loan repayments by the Swiss Society for Hotel Credit (SR 641.207.2), the Federal Council also created the legal basis 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 authorities are also constantly working on the adoption of new measures. We are therefore pleased to inform you in the following about the current status of measures affecting liquidity regarding direct federal tax, withholding tax, stamp duties and social insurance. (Status as of 7 May 2020, 11 am)

1.2 Measures regarding direct federal taxes

Temporary waiver of the imposition of default interest:

For all natural and legal persons, default interest on late payment will not be charged on tax claims that are due between 1 March 2020 and 31 December 2020. The waiver applies regardless of the tax period to which the claim relates. The only decisive factor is that the due date of the provisional or definitive invoice is between 1 March 2020 and 31 December 2020. To this extent, this regulation leads to an interest-free deferral of claims until the end of 2020.

The waiver of default interest also applies to claims for taxes on capital benefits from pensions and supplementary taxes. It also applies to tax claims during this period that are related to leaving Switzerland (exit tax). The same applies to tax claims that become due upon registration for deletion of a taxable legal entity from the Commercial Register during this period.

In addition, the waiver of default interest also applies to tax claims within the prescribed period in circumstances where a foreign taxpayer gives up its business operations or its participation in a domestic business operation, its domestic place of business, its domestic real estate or its claims secured by domestic real estate. The same applies to tax claims within the prescribed period where bankruptcy proceedings are opened against the taxpayer, as well as on the death of the taxpayer.

However, the waiver of default interest does not apply to claims from fines or costs in connection with the Direct Federal Tax.

Facilitation of payments in cases of hardship:

Furthermore, the responsible cantonal reference authority may extend the payment deadline or authorise payment by instalments if payment of taxes, interest and costs or a fine for violation within the prescribed period would be associated with considerable hardship for the payer. In view of the current situation and the associated economic difficulties, the Federal Tax Administration ("FTA") recommends that all cantonal reference authorities treat such applications benevolently.

Remission of tax:

The Federal Act on Direct Federal Tax and all cantonal tax regulations also provide for the possibility of partial or complete tax remission in order to ensure the long-term recovery of taxpayers' financial situation. As a measure of last resort, the conditions for tax remission are relatively strict. It cannot be estimated at this time whether this measure will become more important in the future given the current situation.

Extraordinary provisions in the 2019 annual accounts:

There has been widespread discussion around the question of whether an extraordinary provision can be made in the 2019 annual accounts due to the economic consequences of the spread of the coronavirus. The FTA has instructed the cantonal tax administrations not to allow any extraordinary provisions in the 2019 annual financial statements for the purposes of direct federal tax. This is in contrast to some cantons, some of which have made positive statements about state and municipal taxes (see below, 2.1).

1.3 Withholding tax and stamp duties

No waiver of default interest:

Claims from withholding taxes and stamp duties are excluded from the waiver of default interest. Furthermore, processing by e-mail is not permitted and official forms must therefore still be submitted by post. In order for refund applications to be processed, the signed original forms certified by the foreign tax office or the original signature sheets must still be submitted. In the event of a request for further documents in the refund procedure, there is no automatic extension of the deadline.

Adjustments in the operation of the FTA in the area of withholding tax and stamp duties:

Payment deferrals are granted by the FTA by submitting a justified request using the **Form** on the FTA website or by post to the collection department. On-site inspection activities will be suspended until further notice. However, remote inspection activities continue to take place. The documents requested in this context may either be sent by post, or, preferably, electronically. If the requested documents cannot be submitted within the specified period, an extension of the deadline may be agreed upon in consultation with the responsible officer.

1.4 Measures concerning social security

Facilitation of contributions to AHV/IV/EO/ALV:

Employers and self-employed persons facing liquidity bottlenecks can be granted a deferral of payment of social insurance contributions (AHV/IV/EO/ALV) by the AHV compensation funds. Deferred payment shall be exempt from default interest for six months. Companies also have the option of having the amount of the regular contributions on account adjusted to the AHV/IV/EO/ALV if the sum of their wages has fallen significantly. The same applies to the self-employed if their turnover has collapsed.

To avail of this, the liquidity bottleneck must be shown to exist. Furthermore, applicants must make an immediate initial instalment payment and show willingness to make further payments.

Since 17 March 2020, the interest-free payment deferrals can be applied for a period of 6 months until further notice. The AHV compensation fund of the respective employer is responsible for the examination of these applications.

In order to further improve the situation of companies and the self-employed persons, the AHV compensation fund is also waiving interest on late contributions (AHV, IV, EO, ALV) retroactively from 21 March 2020 to 30 June 2020. Nevertheless, the contributions remain due. From 1 July 2020, the compensation funds will again issue reminders for outstanding contribution payments and initiate legal proceedings if necessary.

Payment of employee contributions through recourse to employer reserves in the area of occupational pensions:

In order to avoid liquidity bottlenecks, employers can temporarily draw on the employer contribution reserves they have built up in order to pay employee contributions to the occupational pension scheme. The employer must notify the pension fund in writing of the use of employer contribution reserves for the payment of employee contributions. A change in the pension fund regulation or affiliation contract is not required. The measure has no effect on the employees: as under normal circumstances, the employer deducts the contribution part from the salary and the total contributions are credited by the pension fund. This provision applies from 26 March 2020 for a period of six months.

2. The measures at cantonal level

2.1 Measures comparable to those for direct federal taxes

The following remarks refer to income and wealth taxes of individuals, and profit and capital taxes of legal entities. Specific measures concerning other taxes at cantonal and municipal level, such as inheritance and gift taxes, have been announced so far only sporadically. However, it can be assumed that the cantonal and municipal tax authorities will use the existing regulations for these purposes as well.

The majority of the cantons have published measures similar in content to those of the Federal Council in the area of direct federal tax. First and foremost, a waiver has been granted of default interest on tax claims for cantonal and municipal taxes with a due date in 2020. Furthermore, a general and unconditional extension of the deadline for filing the 2019 tax return is granted by many cantons, usually until the end of May or June 2020.

Facilitated payment and tax relief:

If tax debts cannot be paid on time, the cantonal authorities promise to treat requests for deferral and partial payment compassionately. Official deadlines can also be extended upon request. However, the current situation does not change the fact that legal deadlines, such as those for objection, appeal, complaint, etc., cannot be extended. It remains possible to reinstate the deadlines upon request.

As mentioned above (see 1.2), some cantons have explicitly mentioned the possibility that companies affected by the economic consequences of the spread of the coronavirus may create an extraordinary provision in their 2019 financial statements. So far, the cantons of Aargau, Thurgau, Zug and Valais have expressed their explicit approval of this possibility, whereas the cantons of Berne, Appenzell Ausserrhoden, Schwyz St. Gallen and Zurich do not wish to grant such provisions.

Extraordinary provisions in the 2019 annual accounts:

As mentioned above (see 1.2), some cantons have made explicit reference to the possibility that companies affected by the economic consequences of the spread of the coronavirus may create an extraordinary provision in their 2019 annual accounts. The cantons of Aargau, Thurgau, Zug and Valais have so far expressed a positive opinion on this possibility, whereas the cantons of Bern, Schwyz, St. Gallen, Appenzell Ausserrhoden, Waadt, Tessin and Zurich does not wish to grant such provisions.

Individual adjustment of the provisional invoices:

As the provisional invoices for 2020 may be based on excessively high tax factors for 2019, the cantons point out that only part of the invoiced amount may be paid. If, in retrospect, it turns out that too much was paid in, interest will be charged at 0.5%. The tax authorities refer to the respective tax calculators to calculate the individual amount.

Restricted operation of the cantonal tax authorities:

All cantonal tax authorities are maintaining their operations at a reduced level. However, to minimise the potential for infections, most tax authorities have closed their public counters. In order to keep the administrative effort low due to the reduced staff, electronic communication is expressly preferred or expanded by many cantons.

2.2 Overview of the published measures of the cantons

If no distinction is made in the following overview, the explanations refer to both natural persons (self-employed and employed persons) and legal entities. In some cases, a fee is charged for the coronavirus-related extension of the deadline for filing the 2019 tax return. Due to rapidly changing measures, the communications of the respective tax administrations are authoritative. (The status of the following is as of 7 May 2020, 11 am):

Canton	Automatic extension of the deadline for filing the 2019 tax return	Default interest on cantonal and municipal taxes due in 2020 and dunning runs	Facilitated payment methods
Aargau	Employed persons: 30 June 2020 Self-employed persons: 30 September 2020 Legal entities: n.a.	No default interest from 1 March – 31 December 2020 Dunning stop until 30 June 2020	Fair handling
Appenzell Innerrhoden	Normal handling	No default interest from 21 March – 31 December 2020	Fair handling
Appenzell Ausserrhoden	Natural persons: 31 May 2020 Legal entities: n.a.	Normal handling	Fair handling
Bern	15 September 2020 Rate correction source tax: 30 September 2020	No default interest 1 January – 31 December 2020 Dunning stop until 30. June 2020	Fair handling
Basel-Landschaft	Employed persons: 30 June 2020 Self-employed persons and legal entities: 30 September 2020 Tariff correction source tax: 30 September 2020	No default interest 25 March – 31 December 2020 No dunning runs in March 2020	Fair handling
Basel-Stadt	31 May 2020	No waiver of default interest	Fair handling
Fribourg	30 June 2020	Normal handling	Normal handling
Geneva	31 May 2020, also for tariff correction source tax	No default interest from 24 March – 31 December 2020	Payment in instalments over 8 months possible
Glarus	30. June 2020	No default interest from 21 March – 31 December 2020	Fair handling
Graubünden	Normal handling	No default interest from 1 January 2020 – 31 December 2020	Normal handling
Jura	31 July 2020	01.01.2020 – 29.02.2020: 5% 01.03.2020 – 31.08.2020: 0% 01.09.2020 – 31.12.2020: 5%	Fair handling
Lucerne	Employed persons: 31 May 2020 Employed persons with tax representative and self-employed persons: 31 August 2020	No default interest in 2020 Dunning stop until June 2020	Fair handling

Canton	Automatic extension of the deadline for filing the 2019 tax return	Default interest on cantonal and municipal taxes due in 2020 and dunning runs	Facilitated payment methods
	Legal entities: 8 months after business transaction		
Neuchâtel	30 June 2020	No default interest until the end of June 2020	Fair handling
Nidwalden	Natural persons: 30 June 2020 Legal entities: 30 September	No default interest from 1 April 31 December 2020	Fair handling
Obwalden	Normal handling	Normal handling	Fair handling
St. Gallen	31 May 2020	No waiver of default interest	Fair handling
Schaffhausen	Natural persons: 30 June 2020 Legal entities: normal handling	No default interest from 1. March 2020 until 31 December 2020 Dunning run suspended until 19 April	Fair handling
Solothurn	Natural persons: 31 July 2020 Legal entities: 31 October 2020	No default interest from 1. March 2020 until 31 December 2020	Fair handling
Schwyz	Natural persons: 31 May 2020; also for tariff correction source tax	No default interest from 24 March – 31 December 2020	Fair handling
Ticino	Natural persons: 30 June 2020 Legal entities: 30 September 2020	No default interest from 1. March 2020 until 30. September 2020	Deadline postponed by 60 days
Thurgau	Normal handling	Normal handling	Normal handling
Uri	Natural persons: 31 May 2020, also for tariff correction source tax Legal entities: 31. July 2020	No reminders in April 2020	Fair handling
Vaud	Normal handling	Normal handling	Normal handling
Valais	Natural persons: 31 May 2020, also for tariff correction source tax	No default interest from 1 April until 31 December 2020 No reminders	Fair handling
Zug	Natural persons: 30 June 2020; also for tariff correction source tax	No default interest from 1. March 2020 until 31 December 2020	Fair handling and a general extension of all tax claims until 30 June 2020

Canton	Automatic extension of the deadline for filing the 2019 tax return	Default interest on cantonal and municipal taxes due in 2020 and dunning runs	Facilitated payment methods
	Legal entities: 30 September 2020 for legal entities		
Zurich	Natural persons: 31 May 2020	Reduced default interest of 0.25% from 1 May – 31 December 2020	Fair handling

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

Authors/contact

Markus Kronauer
Partner, Tax
markus.e.kronauer@nkf.ch

Gregor Lichtenthäler
Associate, Tax
gregor.lichtenthaeler@nkf.ch

This publication does not necessarily address every important matter and does not cover every aspect of the matters it deals with. It is not intended for the purpose of legal or other advice.

