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Coronavirus (COVID-19)

Summary of Key International Tax Measures

April 2020



How tax is part of the battle against COVID-19

Taxpayer-friendly changes in tax law are fast becoming key weapons in governments' arsenals for tackling the economic fallout of COVID-19.

This Hogan Lovells Global Tax Practice guide gives you a summary of key measures to date for MNEs in China, France, Germany, Italy, Luxembourg, Mexico, The Netherlands, Poland, Spain, the United Kingdom and the United States. If you want a broader picture, the OECD has compiled a [toolkit](#) of COVID-19 related tax measures taken by governments internationally.

The OECD has also published "menus" of [tax policy](#) and [tax administration](#) measures governments could consider as part of their immediate response to COVID-19. Many already have.

So what are the themes?

Cash flow help for businesses – The immediate focus of many of the tax measures adopted is on providing income support to households and improving cash-flow for businesses. Deferrals, payment holidays and temporary suspensions are therefore common – and welcome.

Greater freedom to use tax losses and other tax assets – A number of jurisdictions have moved in this direction and the OECD has raised this possibility. By way of example, in the United States, Net Operating Losses from 2018, 2019 and 2020 will be permitted to be carried back five years with a suspension of the usual taxable income limitation on use of NOLs – this gives potential US tax refunds. In China, 2020 losses can be carried forward for eight years. In Italy, carried forward losses and other tax assets may be converted into tax credit for companies suffering bad debts in certain circumstances and Poland is allowing 2020 losses to offset 2019 income, subject to certain conditions.

Relaxations of restrictions on interest deductibility – The United States is temporarily increasing the interest expense deduction allowed by increasing the limitation from 30% of taxable income to 50%. Although not expressly contemplated by the OECD, this may spark a trend in other jurisdictions with similar interest restriction rules, as groups taking on greater borrowings look to maximise deductions.

Measures to address concerns over tax residence – The United Kingdom has published guidance confirming that days spent in the UK where an individual is quarantined or required to self-isolate there, or is unable to travel from the UK because of COVID-19, can fall within the exclusion for "exceptional circumstances" in the UK's statutory residence test for individuals. UK guidance on corporate tax residence and permanent establishments is expected to follow. In Luxembourg, the countdown for the remote working days threshold under the relevant double tax treaty has also been frozen for Belgian and French cross-border workers as from 14 March 2020 until further notice. The OECD Secretariat has looked at similar issues as part of its analysis of tax treaties.

Tax incentives for healthcare – Relevant only to particular enterprises, but, where relevant, these could be significant. For example, China has provided significant deductions for equipment used for manufacture of epidemic control supplies, as well as exempting subsidies and bonuses for medical staff. The OECD also identifies potential tax concessions in this area and the EU has approved the temporary suspension by Member States of VAT and customs duties on imported medical equipment.

Our Global Tax Team would be happy to discuss how any of the measures to-date might impact your business. Please feel free to speak to one of your usual Hogan Lovells tax contacts.



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OECD and European Union

- **OECD publishes short-term measures jurisdictions could consider:** The Centre for Tax Policy and Administration and Forum on Tax Administration have set out some short-term measures intended to assist governments adopting emergency tax policies and tax administrations supporting taxpayers.
 - The CTPA is tracking all government tax policy and administration responses to the coronavirus emergency in an online database.
- **OECD analysis of treaty issues and impact on future work:** The OECD Secretariat has published an analysis looking at the tax residence and permanent establishment issues that may arise under tax treaties as a result of the COVID-19 crisis.
 - The OECD is not currently planning to delay work on its Pillar 1 and Pillar 2 workstreams.
- **EU relaxes State aid rules to allow greater tax reliefs:** The EU is producing a temporary framework to relax State aid rules.
 - This is intended to enable EU Member States to set up schemes to grant benefits to taxpayers to address urgent financial needs, including in the form of tax benefits.
- **VAT and customs duties on medical equipment:** The EU has approved the temporary suspension by Member States of VAT and customs duties on imported medical equipment.



China

- **Tax payment deferrals/rebates:** Enterprises seriously affected by COVID-19 can apply for payment deferral on enterprise income tax and VAT of up to three months.
- Enterprises manufacturing supplies for COVID-19 prevention and control can apply for refunds of uncredited input VAT.
- **Other corporate/business tax measures:** Enterprises manufacturing epidemic control supplies can fully deduct expenses for purchasing equipment to expand production capacity in one go.
- For enterprises seriously affected by COVID-19, losses incurred in 2020 can be carried forward eight years.
- Qualifying donations made by enterprises can be fully deducted for tax purposes.
- **Other VAT/sales taxes measures:** Income from transporting epidemic control supplies, providing public transportation services, courier services, and consumer services is temporarily exempt from VAT and local surcharges.
- For small taxpayers, VAT is temporarily decreased from 3% to 1%, or fully exempted.
- Qualified donations are exempt from VAT and local surcharges, consumption tax and import taxes.
- **Personal tax measures:** Subsidies and bonuses for medical staff and other people participating in COVID-19 prevention and control are exempt from Individual Income Tax.
- Medical supplies received by employees from their employers are also exempt from IIT.

France

- **Tax payment deferrals/rebates:** Companies, other businesses and self-employed individuals can ask for up to a three month deferral of payments of direct taxes (such as corporate income tax and certain local taxes (land tax, “CFE”-tax)) due in March 2020 (or claim reimbursement if already paid).
- Companies, other businesses and self-employed individuals (which are otherwise in good standing) facing severe difficulties can also request direct tax rebates.
- **Other corporate/business tax measures:** Acceleration of the refund by the French tax authorities of certain tax credits (such as R&D tax credit).
- **Other VAT/sales taxes measures:** Acceleration of the refund of VAT credit (simplification of the internal approval process of the French tax authorities when the refund request is below EUR 500,000).





Germany

- **Tax payment deferrals/rebates:**

Taxpayers who can show they are directly and not inconsiderably affected:

- may apply for deferral of taxes (in particular income tax, corporate income tax, VAT) and adjustment of advance payments of income and corporation tax until 31 December 2020. Interest on deferral can generally be waived. Requests for deferral of taxes due after 31 December 2020 and requests for adjustment of advance payments relating only to periods after 31 December 2020 must be specifically justified.
- may apply for adjustment of advance payments of trade tax.

- have enforcement measures against them waived until 31 December 2020 for all taxes in arrears or becoming due by that date and late payment surcharges for between 19 March 2020 and 31 December 2020 will be waived.

- **Other corporate/business tax measures:** None

- **Other VAT/sales taxes measures:** Certain advance payments of VAT for companies in crisis will be reduced to zero on request (e.g. Bavaria, North Rhine-Westphalia, Hesse).



Italy

- **Tax payment deferrals/rebates:** Enterprises and professionals (i) involved in the sectors most affected by COVID-19 (e.g. accommodation facilities, travel agencies, restaurants, bars and pubs, etc.) or (ii) whose revenues did not exceed EUR 2 million in FY2019 can benefit from a postponement to 31 May 2020 of certain payments due in March and April 2020.
- Collection of tax and non-tax payments due to public authorities has been suspended.
- **Other corporate/business tax measures:** Any deferred tax asset which relates to carried forward tax losses or carried forward notional interest deductions may be converted into tax credit by companies suffering bad debts (debts which are overdue for more than 90 days) subject to their assignment to third parties. The conversion is allowed for an amount equal to 20% of the nominal value of the assigned bad debts (subject to a cap of EUR 2 billion).
- For 2020, a tax credit equal to 50% of the cost of sanitizing the workplace is available, subject to a cap of EUR 20,000 per employer.
- **Other VAT/sales taxes measures:** None



Luxembourg

- **Tax payment deferrals/rebates:** A four month extension to the deadline for payment of corporate income, municipal business and net wealth taxes due after 29 February 2020 is available without penalty for late payment.
- Luxembourg companies or self-employed individuals can also file a request for the cancellation (or reduction) of the two first quarter advance payments for both corporate income tax and municipal business tax (but not net wealth tax nor withholding tax on salaries and wages).
- VAT credits below EUR 10,000 are to be reimbursed.
- **Other corporate/business tax measures:** None
- **Other VAT/sales taxes measures:** None
- **Tax residency:** The countdown of the remote working days threshold under the relevant double tax treaty for Belgian and French cross-border workers has been frozen as from 14 March 2020 until further notice. Nothing has been agreed with Germany at this stage.
- During the state of emergency period (until 18 June 2020 at this stage) shareholders meetings and meetings of management may be held exclusively in digital form.

Mexico

- **Corporate and business taxes and VAT:** The federal government, has not yet enacted favorable support, extensions, or measures for taxpayers, regarding federal taxes such as VAT or income tax.
- **Local/state taxes:** The Mexico City government decreed an extension until 30 April for filing the local taxes returns and for the payment of local taxes 2020.





The Netherlands

- **Tax payment deferrals/rebates:** Business enterprises and individuals with business income will be provided the possibility to obtain an extension of payment for any amount of personal income tax, corporate income tax, wage tax and VAT due with no penalties for late payment to be imposed.
- A rate of 0.01% is to be applied as from 1 June/July 2020 for statutory interest and from 23 March 2020 for the tax collection interest.
- Business enterprises and individuals with business income are allowed to request a reduction of preliminary assessments for personal income tax and corporate income tax purposes to reflect newly expected income and profit levels. This reduces payment obligations and may also lead to refunds.
- **Other corporate/business tax measures:** None
- **Other VAT/sales taxes measures:** None



Poland

- **Tax payment deferrals/rebates:** The deadline for payment of tax on building revenues for the months March to May 2020 has been postponed to 20 July 2020. The deadline for payment of personal income tax on salaries collected in March and April 2020 has also been extended to 1 June 2020.
- Debtors are not obliged to increase in 2020 their taxable income by unpaid liabilities previously included in tax deductible costs.
- The commune council may introduce exemptions from property tax for land, buildings and structures used for conducting business activities.
- **Other corporate/business tax measures:** Taxpayers will, subject to certain conditions, be able to deduct losses incurred in 2020 from 2019 income for personal and corporate income tax purposes. Taxpayers are entitled to deduct from taxable income costs of combating COVID-19.
- Fixed assets acquired for the purpose of manufacturing goods for combating COVID-19 may be depreciated through a one-off depreciation deduction in 2020.
- **Other VAT/sales taxes measures:** Entry into force of a new VAT matrix (new list of goods and services taxed at 8% and 5% reduced rates) postponed from 1 April to 1 July 2020. The collection of retail sales tax is deferred until 1 January 2021 (from 1 July 2020).



Spain

- **Tax payment deferrals/rebates:** Deadline for payment of taxes due in March/April is extended (to 30 April or 20 May 2020, depending on circumstances) but only applies to taxes assessed by the tax authorities (i.e. some local taxes, tax debts derived from tax audits). It does not apply to payment of taxes derived from self-assessments (i.e. corporate income tax, VAT, withholding taxes, transfer tax/stamp duty, etc.).
- Tax deferral is available for SMEs and entrepreneurs (with net sales \leq EUR 6 million in 2019) subject to certain conditions: (i) Applies to tax debts with a payment deadline between 13 March and 30 May 2020 (it therefore does not apply to personal income tax or CIT, unless the period is extended), (ii) payment of taxes can be deferred for a period of six months (first three months without interest), (iii) the amount of taxes deferred cannot exceed EUR 30,000 and (iv) the taxpayer must elect for the deferral when filing the relevant tax return.
- **Other corporate/business tax measures:** None
- **Other VAT/sales taxes measures:** None
- **Local/regional taxes:** Several regions and cities are approving tax payment deferrals for taxes collected by them (i.e. transfer tax, stamp duty, inheritance and gift tax, wealth tax, property tax, etc.). Cities are considering tax reliefs for property taxes and municipal business taxes.

United Kingdom

- **Tax payment deferrals/rebates:** VAT due before 30 June 2020 can be deferred until 31 March 2021.
- A 12-month break from paying business rates (a form of property tax) has been granted for all retail, hospitality and leisure and certain other businesses.
- Upcoming income tax self-assessment payments can be deferred until January 2021.
- Companies, other businesses and self-employed individuals with outstanding tax liabilities and who are in financial distress may be eligible to receive support with their tax affairs.
- **Other corporate/business tax measures:** None
- **Other VAT/sales taxes measures:** None
- **Tax residence:** Up to 60 days spent in the UK by an individual can be excluded from certain tax residence day-count requirements where the individual is quarantined or advised to self-isolate in the UK, is advised against travel from the UK or otherwise unable to leave or is asked by their employer to return to the UK temporarily as a result of COVID-19. UK guidance on corporate tax residence and permanent establishments is expected to follow.





United States

- **Tax payment deferrals/rebates:** Employers can delay payment of remaining 2020 employer payroll and social security tax due between now and 31 December 2020, with 50% of the delayed taxes due by 31 December 2021, and the other 50% due by 31 December 2022.
- **Other corporate/business tax measures:** Net Operating Losses (NOLs) from 2018, 2019 and 2020 can be carried back five years (reducing previously paid taxes and, potentially giving rise to cash refunds). The taxable income limitation on use of NOLs is temporarily suspended for purposes of the carryback from the three years so NOLs can fully offset income in the carryback years. However, carrybacks of NOLs can disrupt GILTI calculations for multinationals and reduce the deduction otherwise permitted for GILTI.
- Temporary increase in allowable interest expense deductions by increasing the limitation from 30% of taxable income to 50%.
- Leasehold improvement expenses do not need to be capitalized and are instead permitted as current expenses, accelerating related tax deductions.
- Employee retention tax credit of up to USD 5,000 per employee in 2020 for eligible employers equal to 50% of “qualified wages” for each quarter eligible.
- **Other VAT/sales taxes measures:** None

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