

Emergency measures concerning Coronavirus

Current topics compiled for you
by the advisors of dhpg

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Emergency measures to secure liquidity and for cash optimisation

Emergency measures to secure liquidity and for cash optimisation (1)

Measures by the tax authorities

- / To ensure liquidity, taxpayers, who are evidently and significantly affected, can submit an application to reduce the advance payment with a brief indication of the current income expectations for 2020 to the tax authority (income tax and corporate income tax).
- / On application, the tax offices in North Rhine Westphalia will set the special advance payments for permanent extensions of VAT for companies affected by the crisis down to zero.
- / Facilitated deferral regulation for income tax, corporate income tax and Value Added Tax
- / Here, you will find the application forms for tax relief due to the effects of Coronavirus
 - / [Finanzverwaltung NRW \(tax authority North Rhine Westphalia\)](#)
 - / [Finanzverwaltung Bayern \(tax authority Bavaria\)](#)
- / The tax authorities waive enforcement measures and late payment penalties until the end of the year
- / For details see [Schreiben des Bundesministeriums für Finanzen \(BMF\) vom 19.3.2020](#) (Download)



Emergency measures to secure liquidity and for cash optimisation (2)

Trade tax

- / Pursuant to Sec. 19 para. 3 sentence 3 German Trade Tax Act (*Gewerbesteuer*gesetz / *GewStG*), the tax office can initiate the adjustment of the trade tax prepayments for the current assessment period if it is aware of changed circumstances with regard to the trade income
- / In this respect, taxpayers who are affected directly and significantly by Coronavirus may apply for a reduction of the trade tax base for advance payments until 31 December 2020 by indicating their circumstances
- / These applications must not be rejected because the taxpayers cannot prove the value of the occurred damage in detail
- / If the tax authority determines the trade tax assessment amount for the purpose of advance payments, the municipality concerned is bound by this when determining its trade tax advance payments (Sec. 19 para. 3 sentence 4 German Trade Tax Act (*GewStG*))
- / For details see the [identical decree of the supreme tax authorities of the federal states](#) (download)

Emergency measures to secure liquidity and for cash optimisation (3)

Value Added Tax (VAT)

- / According to the Federal Ministry of Finance (BMF) there are measures regarding VAT pending:
 - / a prolongation of deadlines for advance VAT returns or
 - / a general changeover to quarterly advance VAT returns

Emergency measures to secure liquidity and for cash optimisation (4)

Measures by other institutions

- ✓ The trade association food and catering (possibly other trade associations as well) offers the affected companies interest-free deferral of contributions
- ✓ The trade association will also suspend enforcement measures on deferrals of contributions
- ✓ The umbrella association of the health insurances (*GKV-Spitzenverband*) is currently negotiating with the health insurances and the associated external insurers (e.g. German Pension Insurance (*Deutsche Rentenversicherung*), Federal Employment Agency (*Bundesagentur für Arbeit*)) about payment reliefs of social security contributions. The companies are recommended to negotiate with the health insurances as collecting agency about deferrals, waivers on late payment fines or suspension of enforcement on a case-by-case basis.



Emergency measures to secure liquidity and for cash optimisation (5)

Measures for companies

- ✓ The first and well-implementable measure is the application for a suspension of repayment at the respective bank. The suspension of repayments is also useful for companies which are not yet in a problematic financial situation in order to create liquidity reserves
- ✓ In case you have not yet invoiced open claims or receivables you are recommended to immediately address to the customer with the request to settle the claims as quick as possible. Unsettled services should be invoiced promptly.
- ✓ Unsettled liabilities should be paid upon maturity only. Furthermore, conversations with the suppliers should be held in order to agree on deferral possibilities, resp. payment of liabilities in instalments.
- ✓ To apply for loans to bridge liquidity shortage
- ✓ Recommended reading: [*Krisenmanagement in Unternehmen: Mit diesen 7 Regeln steuern Sie Ihre Firma durch die Krise \(Crisis management in companies: these 7 rules help you conduct your company through the crisis\)*](#)



Emergency measures to secure liquidity and for cash optimisation (6)

Measures for companies

- / The emergency aid programme for micro-enterprises and solo self-employed persons is funded by the Federal Government and the State of North Rhine-Westphalia. Information on this programme and an application form can be found on the websites of the [NRW state government](#), the [NRW Ministry of Economics](#) and the [Federal Ministry of Economics](#)
- / North Rhine Westphalia has passed a rescue programme
 - / [Finanzverwaltung \(Tax authority\)](#)
 - / [Land NRW \(Federal State North Rhine Westphalia\)](#)
- / Application of financing measures regularly through the house bank at KfW bank (*Kreditanstalt für Wiederaufbau*) and NRW.Bank (only responsible for North Rhine Westphalia)
- / To find the suitable financing solution, e.g. here
 - / [Finanzierungsportal \(financing portal\)](#)
 - / [Taxy.io](#)



Emergency measures to secure liquidity and for cash optimisation (7)

Emergency aid for small enterprises

- ✓ Important note on the application
 - ✓ The Corona Shield Programme complements the programmes of the federal states. Applications should therefore be processed from a single source in the federal states. They will announce which authority is responsible in each state. Applications should be submitted electronically wherever possible. The details of the actual application will be announced on the website of the [Federal Ministry of Finance](#) and updated on an ongoing basis.
- ✓ Overview of emergency aid
 - ✓ An overview of the emergency aid subdivided according to federal states can be found [here](#)



Emergency measures to secure liquidity and for cash optimisation (8)

KfW-Corona-Aid: [Loans for companies](#)

- / The Federal Ministry of Economics has published a [fact sheet](#) on the KfW Special Programme
- / KfW Entrepreneur Loan (037/047) for companies existing since more than five years
- / If you apply for a loan for investments and equipment, KfW assumes a part of the risk of your bank. This increases the chance to obtain a credit commitment.
- / Risk assumption of up to 80 % for large companies (037)
- / Risk assumption of up to 90 % for small and medium-sized companies (047)
- / You can apply for up to € 1 bn for each company group. The maximum loan amount is limited to 25 % of the annual turnover 2019 or twice the wage costs in 2019 or
- / the current financing requirements for the next 18 months for small and medium-sized companies, resp. twelve months for large companies or
- / 50 % of the total indebtedness of your company for loans exceeding € 25 mn



Emergency measures to secure liquidity and for cash optimisation (9)

KfW-Corona-Aid: [Loans for companies](#)

- / *ERP-Gründerkredit* (ERP-start-up loan) – Universell (073/074/075/076) for young companies with an existence since less than five years
- / If your company has been active on the market for at least three years, you can apply for a loan for investments and equipment. KfW assumes part of the risk of your bank. This increases your chances to obtain a loan commitment.
- / Risk assumption of up to 80 % for large companies (075)
- / Risk assumption of up to 90 % for small and medium-sized companies (076)
- / If your company has been active on the market for less than three years, small and medium-sized enterprises (074) and large companies (073) can also apply for a loan for investments and equipment.
- / Note: supplementary measures by the Federal Government are currently developed. We will inform you as soon as possible.



Emergency measures to secure liquidity and for cash optimisation (10)

KfW-Corona-Aid: [Loans for companies](#)

- / *KfW-Sonderprogramm* (special programme) – syndicated financing as of € 25 mn. Direct participation for syndicated financing (855)
- / KfW participates in syndicated financing for investments and equipment of medium-sized and large enterprises. KfW assumes up to 80% of the risk, but not more than 50% of the risks of the total indebtedness. This increases your chance to obtain individually structured and tailor-made syndicated financing.
- / The KfW risk share amounts to at least € 25 mn and is limited to 25 % of the annual turnover in 2019 or twice the wage costs of 2019 or
- / the current financing requirements for the next twelve months
- / optionally, all banks participating in the consortium can be refinanced by KfW
- / If you wish to use a credit guarantee, please contact the *Bürgschaftsbank* (guarantee bank) of your federal state



Emergency measures to secure liquidity and for cash optimisation (11)

Recommendations for companies according to [Bürgschaftsbank and NRW.Bank](#) (guarantee bank and North Rhine-Westphalia bank)

- / Determination of liquidity requirements
- / Preparation of decision documents for banks, important are in particular:
 - / annual financial statement 2018
 - / provisional annual financial statement 2019, alternatively business assessment 2019 including trial balance
 - / brief description of the situation, explanation of measures taken
 - / provisional liquidity planning 2020
 - / profitability planning for 2020 and 2021
- / Conducting a counselling interview, depending on the initial situation
 - / directly with the house bank (corporate client consultant)
 - / in advance with funding / financing advisors of the chambers
 - / with funding / financing experts of the *Bürgschaftsbank NRW* (guarantee bank North Rhine-Westphalia)



Emergency measures to secure liquidity and cash optimisation (12)

Recommendations for companies according to [Bürgschaftsbank und NRW.Bank](#) (guarantee bank and North Rhine-Westphalia bank)

/ Application of financing funds

- / at the house bank, collateralized by the *Bürgschaftsbank* / guarantee bank, if necessary
- / direct application of a guarantee at the *Bürgschaftsbank* / guarantee bank

/ **Specific funding possibilities**

- / Silent partnership up to € 75,000 (micro-mezzanine fund) for liquidity financing
- / Application through [Kapitalbeteiligungsgesellschaft NRW](#) (KBG NRW / Capital Investment Company NRW)
- / A micro-mezzanine fund is available through KBG NRW. This fund provides up to € 75,000 of equity in return for a silent partnership. The fund is aimed at small companies, start-ups and special target groups (start-up from unemployment, training companies). Please find further information on the [website of the Kapitalbeteiligungsgesellschaft NRW / Capital Investment Company NRW](#)

Emergency measures to secure liquidity and for cash optimisation (13)

Recommendations for companies according to [Bürgschaftsbank und NRW.Bank](#) (guarantee bank and North Rhine-Westphalia bank)

- / Up to € 2.5 million default guarantee to secure loans from house banks
 - / Application through the house bank, loans up to
 - / € 250,000 by express procedure (decision within three days after receipt of application)
 - / € 500,000 by circular procedure (decision within three days after submission of all documents)

Emergency measures to secure liquidity and for cash optimisation (14)

Recommendations for companies

- / The [Sparkasse KölnBonn](#) offers “*Soforthilfe*“ (immediate aid) – until KfW loans are granted – at a rate of 5.5 %
- / The [Bremer Aufbau Bank](#) offers a liquidity subsidy that does not have to be paid back:
 - / Depending on the height of the indicated liquidity bottleneck up to € 5,000
 - / In justified individual cases up to a maximum of € 20,000 with corresponding proofs

Emergency measures to secure liquidity and for cash optimisation (15)

The following institutions supply further information:

/ [Bundeswirtschaftsministerium](#)

(Hotline: 030 186 15 15 15)

/ [Wirtschaftsministerium NRW](#)

/ [KfW Bank](#)

/ NRW.Bank: 0211 91741 4800

/ [Verband der Bürgschaftsbanken](#)

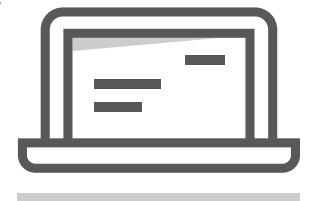
/ [Bremer Aufbau Bank GmbH](#)

/ [Bundessteuerberaterkammer](#)

/ [Steuerberater-Verband e.V. Köln](#)

(direct download of a PDF)

/ Chamber of Industry and Commerce: Please contact regional representatives directly



Emergency measures to secure liquidity and for cash optimisation (16)

Other notes

Federal Export Credit Guarantees (so-called Hermes Cover)

- / A sufficient financing framework should be available for the Federal Export Credit Guarantees, which can be extended on short notice, if necessary. Hermes Cover can be applied for through the [Portal of the Foreign Trade and Investment Protection of the Federal Republic of Germany](#) .

Loss of earnings due to quarantine

- / Anyone who is prohibited to work and thereby suffers a loss of earnings without being ill will receive compensation (Sec. 56 ff. German Protection against Infection Act (*Infektionsschutzgesetz*)). The Rhineland Regional Council (LVR) and Westphalia-Lippe (LWL) are responsible for North Rhine-Westphalia. If an employee is subject to quarantine measures without being ill, he/she receives continued payment of wages from his/her employer, who in turn can claim compensation from the Regional Council. The application must be submitted in writing to the Regional Council (Department of Social Compensation), enclosing precise evidence, within three months (!) as of the end of the work prohibition or the end of the isolation. Further information has been prepared by the Rhineland Regional Council on the [website](#).

Suspension of the obligation to file for insolvency for companies affected by the Corona pandemic planned

Suspension of the obligation to file for insolvency (1)

Draft law of the federal government

- ✓ Management bodies of legal entities (above all GmbH, GmbH & Co. KG, AG) are obliged to file for insolvency within three weeks as of inability to pay or over-indebtedness. In case of an infringement the body will be liable for prosecution due to a delay in filing for insolvency.
- ✓ In order to avoid that companies are forced to file for insolvency because the above mentioned measures (especially loans) cannot be made available quickly enough the obligation to file for insolvency shall be suspended until 30 September, 2020.
- ✓ The precondition is that the reason for the insolvency is based on the Corona epidemic and that there are reasonable prospects of restructuring due to an application for public assistance or serious financing or restructuring negotiations by the applicant. If necessary, this will have to be certified by an expert.
- ✓ The respective press release of 16 March, 2020 can be found on the [website of the Federal Ministry of Justice and Consumer Protection](#)



Suspension of the obligation to file for insolvency (2)

Draft law of the federal government

- / On 23 March, 2020 the federal cabinet has concluded the draft of the “Act for temporary suspension of the obligation to file for insolvency and limitation of the directors’ and officers’ liability in an insolvency caused by COVID 19 pandemic (COVInsAG)“
- / The key elements of the draft are as follows
 - / Suspension of the obligation to file for insolvency until 30 September, 2020 (suspension period) in case of an insolvency caused by Coronavirus
 - / Limitation of the directors’ and officers’ liability for payments in vicinity of insolvency during the suspension period
 - / Limitation of liability and the risk of objection for credit grantors and creditors
 - / Suspension of the subordination for shareholder loans granted during suspension period
- / The law is expected to be enacted by the Lower House of German Parliament (*Bundestag*) within this week



What preconditions must
be met for short-time work
(*Kurzarbeit*)?

What preconditions must be met for short-time work? (1)

- / Significant work loss with loss of earnings
 - / based on economic reasons, temporary and inevitable

- / 1/3 of the employees have to be affected by work reduction
 - / **as of 03/2020: 10 % of the employees**

- / In companies with agreements for time fluctuations these have to be realized first in order to avoid short-time working.
 - / **as of 03/2020: obligation for a negative work time account shall be partially / fully waived**

- / Up to now, there is no entitlement for short-time allowance for temporary workers
 - / **as of 03/2020: receipt of short-time allowance also for temporary workers**

What preconditions must be met for short-time work? (2)

- / Entitled persons: employees subject to mandatory social insurance
 - / Marginally employed persons are not entitled to receive short-time allowances
- / Reduction of work-time does not have to be equal for all employees
- / The reduction can be limited to certain divisions / plant sections of the company
- / Working overtime is not allowed during short-time working
- / Precondition for the implementation of short-time working
 - / With works council: agreement resp. a regulation in accordance with the collective agreement
 - / Without works council and without regulation according to collective agreement: individual agreements resp. consent of employees required (**agreements / consents have to be attached to the application to the employment agency!**)

Application for short-time allowance

- / Application has to be sent to the local employment agency (*Agentur für Arbeit*)
 - / The employment agency (*Agentur für Arbeit*) where the district for payroll office responsible for the employer is located
- / Notification of work loss (first stage)
 - / Short-time allowance will be paid at the earliest from that calendar month in which the notification reached the employment agency pursuant to Sec. 99 para. 2 German Social Security Statute Book III (*Sozialgesetzbuch/SGB III*). I.e. the notification has to be made at the latest by the end of the calendar month for which benefits shall be reimbursed for the first time
- / Early coordination with the Federal Employment Agency and indication of short-time working at the employment agency (*Agentur für Arbeit*)
- / Individual assessment by the employment agency
- / Information material and application forms can be found in the [internet presence of the Federal Employment Agency \(*Bundesagentur für Arbeit*\)](#)
- / Application also “online“ possible

Payments for short-time working allowance

- / Amount short-time allowance: like unemployment benefits (**67 %** of net remuneration difference for employees with at least one child, resp. **60 %** for employees without children)
- / Payment to employer for transfer to employee through payroll
- / Compensation claims pursuant to Sec. 56 German infection protection law (*Infektionsschutzgesetz / IfSG*) have priority over short-work allowances
- / Social security contributions have to be borne further by the employer
 - / **as of 03/2020: reimbursement by Federal Employment Agency**
- / Subscription period: twelve months at the highest
 - / prolongation up to 24 months possible by statutory order of the Federal Ministry of Labour and Social Affairs (*Bundesministerium für Arbeit und Soziales*)

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Pandemic plan / guideline Coronavirus

Pandemic plan / guideline Coronavirus

- / Many companies are challenged for the first time to draw up a guideline (pandemic plan) for their company. What information is necessary? What are the processes? What responsibilities have to be assigned?
- / dhpg has developed a model guideline for clients which can be used as manual for prevention and reaction measures within the company and can be individually tailored to this.
- / The template has been prepared in a manner that it can be also used for other crisis or infection scenarios and can be acquired from dhpg at a flat-rate fee. It contains information on
 - / contact persons and responsibilities
 - / hygienic measures
 - / social interactions with endangered groups of employees
 - / catalogue of measures and escalation levels
 - / information obligations
- / **Note:** possibly the implementation of the guideline requires the co-determination of the works council



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Information for landlords and tenants (commercial rent)

Commercial rents in times of precautionary closures (1)

- ✓ Even in the crisis, the lease parties are basically bound by their contractually agreed obligations. The landlord is obliged to allow the leased property to be used and the tenant to pay the contractually agreed rent.
- ✓ The prohibition of business operations due to administrative orders does not constitute a right to reduce the rent. The tenant bears the so-called use risk, in particular the risk of making profits from the leased property.
- ✓ In this context, the tenant is not entitled to terminate the rental agreement beyond the agreed or statutory periods. An adjustment claim of the contract according to the principles of loss of the commercial basis or contract adjustment will be excluded.
- ✓ The German government has reacted and initiated a change in the law as part of the adopted Corona aid package. From April 2020, tenants can now reduce or even completely suspend their payments until June 2020 without this triggering the right of termination to which the landlord is entitled generally.

Commercial rental space in times of precautionary closures (2)

- / The tenant must substantiate that the payment difficulties are due to the Corona Pandemic.
- / Important for landlords and tenants: The suspended payments must be made up to June 2022.
- / The Lower House of the German Parliament (*Bundestag*) must still approve the bill in its session scheduled for 25 March, 2020. After that, the law should pass the Upper House of the German Parliament (*Bundesrat*) on 27 March, 2020.
- / In order to avoid disadvantages, we urgently advise not to stop or reduce the rent without contacting the landlord. Whether the prerequisites for the postponement planned by the legislator are met must be examined in each individual case.



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Impacts on accounting - value clarification versus value justification

Covid-19: Impacts on accounting – value clarification versus value justification (1)

- ✓ With regard to possible effects by the new Coronavirus (Covid-19) on financial reporting according to German Commercial Code as of the reporting date 31 December, 2019, the decisive factor is the extent to which the outbreak can be classified as a **value-clarifying** or **value-justifying** fact.
- ✓ The difficulty regarding the classification (value-justifying versus value-clarifying) lies in the fact that the spread of Covid-19 is not restricted to a certain moment but represents a continuous process.
- ✓ First cases of infections were known in December 2019, however, according to today's knowledge, they were regionally restricted. A sudden spread of the infection with economic consequences (closure of plants and impairments of supply chains and sales processes) only occurred as of January 2020.

Covid-19: Impacts on accounting – value clarification versus value justification (2)

- / In the opinion of the Institute of Public Auditors in Germany (*Institut der Wirtschaftsprüfer / IDW*), it can be assumed that the developments around Covid-19 are to be classified as a global threat as **value justifying** and thus the outbreak of Covid-19 causally occurs in 2020.
- / Pursuant to Sec. 285 No. 33 German Commercial Code (*Handelsgesetzbuch / HGB*), the financial statements up to 31 December, 2019 require **post-balance sheet reporting** and an **assessment in the (consolidated) management report** for the financial years ending on 31 December, 2019.
- / A significant exception results if the **going concern assumption** underlying the preparation of the financial statements can no longer be maintained. In this case, the financial statements as of 31 December, 2019 have to be prepared no longer under the going concern assumption, even if the causal event only occurred in the new financial year.



Covid-19: Indication of risks in the (consolidated) management report

- ✓ Besides the post-balance sheet reporting in the notes to the financial statements pursuant to Sec. 285 No. 33 German Commercial Code (HGB), a presentation of the risks in the (consolidated) management report for the financial year 2019 is required.
- ✓ The risk report should be particularly mentioned with reference to the **development around the Covid-19 as relevant risk factor** regarding the **achievement of forecasts** or **corporate objectives**.

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Coronavirus also affects IT security

Coronavirus also affects IT security

- ✓ The fact that more and more work is currently being done in the home office also creates new challenges in the area of IT security. The Federal Office for Information Security (*Bundesamt für Sicherheit in der Informationstechnik / BSI*) has therefore summarized the most important recommendations from the IT basic protection in an overview.
 - ✓ [Homeoffice – Aber sicher!](#) (Home office – but secure!)

- ✓ The BSI also warns against cybercriminals who are increasingly sending malware via email by using the keyword "Covid-19" and spreading false reports.
 - ✓ [Cyber criminals exploit Corona through false reports](#)

- ✓ This means, that particular caution shall be taken. Please learn more on the page of CSOC. We have compiled the current processes for you.
 - ✓ [Increased protection measures required: Corona, computer viruses etc.](#)

