

# COVID-19 – Inheritance and gift tax relief

**DUE TO THE ECONOMIC LOSSES CAUSED BY THE CORONAVIRUS, THE BAVARIAN TAX AUTHORITIES HAVE INTRODUCED INHERITANCE AND GIFT TAX RELIEF MEASURES TO AVOID UNDUE HARDSHIP.**

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## Executive Summary

- Requests for deferrals under Sec. 222 AO (German Fiscal Code) justified with the effects of the coronavirus crisis, will generally be granted for up to three months without requiring further evidence.
- The deferral is interest-free and should, as a rule, not be subject to a security.
- Applications for extending the deadline for submitting inheritance tax returns based on the effects of the coronavirus crisis will generally be granted for up to three months without requiring further proof.

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## Introduction

As a response to the new economic situation caused by the coronavirus pandemic, the Federal Ministry of Finance (BMF) has recently felt compelled to launch a package of measures to counteract unfair hardship.<sup>1</sup> Until now, however, this package largely overlooked inheritance and gift tax.

By decree of the Bavarian State Tax Office of 26 March 2020<sup>2</sup>, the inheritance tax offices and the deferral and remission offices of the Bavarian tax authorities are now required to implement the following tax relief measures to avoid undue hardship in inheritance and gift tax law.

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<sup>1</sup>BMF, from 19 March 2020 – IV A 3 - S 0336/19/10007 :002, Federal Tax Gazette (BStBl.) I 2020, 262.

<sup>2</sup> State Tax Office (LfSt) Bavaria, Decree of 26 March 2020 – S 3900.1.1-23/1 St34, DStR (specialist journal on German tax law) 2020, 799.

## Short-term deferral of inheritance / gift tax payments

If a taxpayer submits an application for deferral of inheritance or gift tax in accordance with Sec. 222 AO and justifies this with the effects of the coronavirus crisis, the deferral request is to be approved for a period of up to three months; unless the request is obviously unfounded. The taxpayer should not have to provide any further supporting documents with the application.

The deferral will also be interest-free. However, the taxpayer must be informed of the fact that this interest-free deferral is limited in time. Taxpayers seeking an interest-free deferral beyond the three-month period must submit a new application before the end of the first three-month period.

The decree also indicates that the tax offices are to prioritise such applications and process them as quickly as possible as long as they contain the above-mentioned justification.

Moreover, the deferral approval should regularly not require a security. A security should only be necessary if the realization of the tax claim appears to be directly threatened.

## Extended deadlines for inheritance / gift tax returns

Taxpayers submitting an application to extend the deadline for submitting their inheritance or gift tax return and justify this on the grounds of the effects of the coronavirus crisis will be granted an extension of up to three months, unless the application is obviously unfounded. Applicants should not have to enclose any further supporting documents. Such an extension may also be granted retroactively.



## Additional documents and other deadlines

Furthermore, the Bavarian tax authorities are requested to take the current situation into account when indicating deadlines for the submission of additional documents, further information or other requests.

## Conclusion

The aforementioned measures to avoid undue hardship in the context of inheritance and gift tax are a positive development. However, it should be noted that the Bavarian state decree only applies to inheritance and gift tax administered by Bavarian tax offices. In order to avoid a "patchwork" of different regulations, it is to be hoped that the other federal states will follow suit with similar regulations. In addition, the outlined relief should apply to all types of tax, if possible, under the appropriate conditions of being affected by the Corona crisis. It would also be desirable for the tax authorities to generously exercise the discretion they have especially in taking measures "on the grounds of equity" in the sense of Sections 163, 227 AO. This would be a significant relief for taxpayers affected by the coronavirus crisis.

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