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Client information: Corona Emergency Aid – important information on the expired aid programs

Dear client,

With regard to the end of the Corona emergency aid programmes, we would like to point out to you today that the application for the funds from the Corona emergency aid could only be made under certain conditions and could not contain false or incomplete information, since this could otherwise constitute criminal subsidy fraud.

In this case, and also in the case of too much Corona emergency aid, it must be reimbursed (proportionally if necessary).

The conditions for applying for emergency Corona assistance were:

1 No “economic difficulties”

As of 31.12.2019, your company could not have been a “company in economic difficulties”. Companies which were already in economic difficulties before the major measures to protect against Corona are not eligible in this context.

Economic difficulties within the meaning of Regulation (EU) No 651/2014 are met if at least one of the following conditions is met as of 31.12.2019:

- In the case of a corporation* (e.g. GmbH or AG) more than half of the subscribed share capital must have been lost as a result of accrued losses. This is the case if, after deduction of losses from the reserves and all other elements generally attributable to the company's own funds, there is a negative amount equal to more than half of the share capital.
- Companies* in which at least some members are fully liable for the company's debts (e.g. OHG or KG) more than half of the own funds shown in the accounts must have been lost as a result of accrued losses.
- The company is the subject of insolvency proceedings or fulfils the conditions for the opening of insolvency proceedings.
- The company has received rescue aid and has not yet repaid the loan or the guarantee is still running or the company has received restructuring aid and is subject to a restructuring plan.
- For non-small and medium-sized enterprises (SMEs), the leverage ratio is above 7.5 and the ratio of earnings before all interest and amortisation (EBITDA) is less than 1.0.

*except small and medium-sized enterprises which have not yet existed for three years

2 Maximum 5 or max. 10 employees

The Corona emergency aid could only be applied for by companies with max. 5 or max. 10 employees. The deadline for determining the number of employees was also 31.12.2019. The number is determined by hours per week, taking part-time workers into account proportionally (as can be seen from the annex attached).

3 Corona-related liquidity bottleneck

The liquidity shortage must have been caused by the Corona crisis. In accordance with the procurement guidelines of the IBB (for Berlin), the Corona emergency aid was used to compensate for

- Corona-related
- Liquidity bottlenecks
- in the three months following the application.

A liquidity bottleneck means that no (sufficient) liquidity exists/was to pay e.g. ongoing obligations. Your company must have fallen into an existential situation as a result of the crisis.

Important here is a comprehensive documentation of the liquidity situation at the time of the application and in the 3 months thereafter.

If there is a documentation of the liquidity bottleneck, which contains a plausible forecast at the time of the application and if this forecast turns out to be wrong in retrospect, however, there may be a repayment obligation, but a false forecast is not punishable.

The documentation should contain statements as to what development was assumed at the time of the application, how the situation in the company developed and why the Corona emergency assistance was needed.

In determining the specific liquidity bottleneck, which is relevant, among other things, for the amount and, where appropriate, for the repayment of the Corona emergency aid, we are happy to assist with appropriate commissioning. In this case, please send us a copy of your application documents.

4 Use of funds

Furthermore, we would like to point out to you that emergency aid should normally only be used for ongoing operating costs, but not e.g. for new company purchases, and as far as possible not for personal costs of living.

With funds from Berlin "So Soforthilfe I" in total EUR 5,000, in addition to the ongoing operational and financial expenses, "staff costs, costs of private life and health insurance costs" could be paid. The extent to which the cost of private life can be estimated is not specifically regulated. In Baden-Württemberg, which offered a similar state subsidy, a flat rate of EUR 1,180 per month was fixed for this purpose. This could serve as a clue.

For further details, please refer to the attached annex.

To our knowledge, at least random checks are to be expected, some of which have already begun. We therefore recommend that you review the fulfilment of the application conditions critically.

If you have specific questions about criminality, please contact your lawyer, as we are not allowed to advise you as a tax consultant.

We are of course at your disposal for all other questions in this matter.

Sincerely,

Your ATC team