Portugal

Portugal undertakes a layered tax response to mitigate COVID-19 hit economy

José Maria Montenegro of Morais Leitão discusses how the Portuguese government has moved to assist businesses affected by the ongoing COVID-19 outbreak.

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June 04 2020

Portugal has taken gradual steps to assist businesses affected by the pandemic

Like many other countries in Europe, Portugal has faced a sudden paralysis of the economy directly related to the unpredictable and insidious COVID 19 virus.

The first measures, perhaps more instinctive and reactive, were naturally in the field of health policy (strengthening the national health system's capacity, a general lockdown, aggressive restrictions on people and vehicles movements, closing borders and minimising economic activities). In Portugal, such measures were reinforced with the constitutional umbrella represented by the state of emergency, duly approved in coordination by the main democratic authorities – the president, the government and the parliament (it was, in fact, the first time in the Portuguese democratic history that the state of emergency was declared).

Alongside those initiatives in the field of health policy, the Portuguese government was also forced to react to the most immediate needs to cater to the national economy's resilience. With the population (consumers) confined, economic activity was almost paralysed and led to an imminent growth of unemployment. The focus then became the task to provide a minimum of cash flow to companies and families to ensure the economy's eventual capacity to bounce back.

A wide range of tax measures have since been adopted as a response to both concerns – the economy's resilience and for health-related consequences.

The Portuguese government opted for a first set of tax measures related to the postponement of tax payment deadlines, which included, (i) the special payment on account of corporate income tax (ii) corporate income tax return and the tax payment for the 2019 financial year, and (iii) the first payment on account and the first additional payment on account of corporate income tax.

At the same time, all tax enforcement proceedings (*processos de execução fiscal*) were suspended during the second quarter of 2020, including those ongoing and those which were initiated during this period. An exceptional regime for the payment of VAT and the delivery of withholding tax regarding personal income tax and corporate income tax was also approved.

A range of measures have also been approved for the justice sector (including for tax courts, the arbitral tax court and tax administrative proceedings), in order to implement the various constraints that affect the normal and regular operation of the courts and various other bodies and entities of the justice system. In this context, procedural deadlines were suspended from March 9 until June 3 2020.

It is widely known that the tax system pursues the common purpose of ensuring the state's financial needs, according to the ability to pay or to contribute towards company profits, equality and social justice. At the same time, the tax system has the need to respond to the demands of the economy, employment and people. Despite the prompt measures already taken, it is necessary to say that they are nothing more than palliative measures (and potentially harmful), and that do not provide to the boost to the economy that companies will need in the tax domain. Moreover, the common denominator in all these measures – if we look closely – has been the mere postponement on compliance with declarative and tax obligations, which obliges businesses to anticipate a huge tax pressure period (when these current obligations are overcome and coincided with those ordinary ones that will be due later).

In other words, with no exemptions, tax relief or a special regime – that are strongly recommended – Portugal could face a crisis on the ability to pay. It will be impossible to avoid or mitigate the threat that hangs over companies, and the economy will not be able to assure that purpose of ensuring the state's financial needs. It is perhaps time to revert the classical priorities: first, demands of the economy, employment and people; in order to prevent the issues related to the ability to pay (as a condition to assure the state's financial needs in the future).

Of course, the Portuguese case (the Portuguese equation) is particularly demanding and difficult. Based on the latest forecasts from the International Monetary Fund (IMF) and the European Commission, the 2020 Portuguese public debt will be dangerously at 135% of the GDP and the state budget deficit will be more than 7%.

There is increasing market expectation placed on the upcoming state budget, which has been announced for June (to be approved during the summer). Despite the lack of clarity on the timescale of the ongoing pandemic, businesses are no longer talking about more postponements and deadlines. There is an expectation that future measures should instead focus on tax incentives, benefits and exemptions, especially on corporate income tax (the end of payment on account is almost assumed), personal income tax (at least, on withholding tax rates) and VAT tax rates (some services and products could be added to the intermediate or reduced VAT tax rate lists).

In any case, it is recommended that the tax measures already in force, should be considered carefully. Future developments will be dependent on the economic data gathered from the last three months of pandemic and, above all, on the framework of the Stability and Growth Pact (SGP) limits at an EU level. However, one thing which is certain is that the tax system will remain under pressure.

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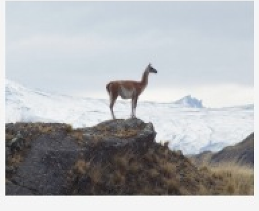

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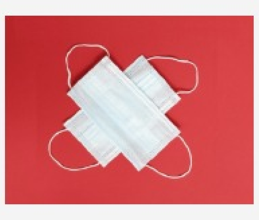

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