

THE 'CORONAVIRUS PROVISION' IN THE FINANCIAL STATEMENTS 2019

As the coronavirus pandemic has been growing rapidly since the start of the year, many businesses are asking themselves whether a special provision can be posted against net profit in the financial statements as at 31 December 2019. This could be used to absorb future losses.

1. Accounting aspects

Provisions must be made under accounting law if past events lead to the expectation of a cash outflow in future financial years (Article 960e [2] of the Swiss Code of Obligations [Obligationenrecht, OR]). However, in addition to the mandatory provisions, other provisions may be made, for example, to secure the long-term prosperity of the enterprise (Article 960e [3] [4] OR).

The so-called impending losses from pending transactions ('drohende Verluste aus schwebenden Geschäften') are no longer explicitly mentioned in the accounting law. Examples of this include **provisions for purchase or sales commitments** ('Abnahme- oder Lieferverpflichtungen') if own goods or services have not yet been provided in a bilateral legal transaction and a loss is expected on fulfilment. Such provisions are also mandatory provisions.

A **lump-sum provision for general coronavirus crisis risks** will often qualify as a provision to secure the long-term prosperity of the enterprise. However, in certain cases, classification under liabilities that exist at the end of the financial year or under impending losses from pending transactions may also be an option. Such provisions are mandatory under accounting law, provided there is sufficient connection to the past financial year. This may, for example, be the case with supply contracts and contracts for work and labor concluded in 2019 in the construction or industrial sectors if there is reasonable concern that the customer may be unable to pay or if it is expected that the supplier will likely become unable to execute the order in good time and, therefore, defaults on its obligation. Also, risks of impending losses in the area of long-term contractual relationships such as rental agreements may justify the formation of a provision.

If the **going concern assumption must be questioned**, liquidation values must be used as a basis for the financial statements. Changing the financial reporting to liquidation values normally entails significant valuation adjustments and additional provisions. All known facts and expectations for the period to 31 December 2020 must be taken into account in this process. For this reason, additional provisions for the expected economic consequences of the coronavirus crisis are likely to be mandatory under accounting law.

2. Acceptance under tax law

Provisions that are mandatory under accounting law are, in any event, commercially justified under the Federal Supreme Court's case law and are, therefore, deductible for tax purposes. In the context of the coronavirus crisis, such may be the case if there are compensation liabilities or contractual penalties in supply contracts and contracts for work and labor if it is foreseeable that the supplier will be unable to provide its goods or services properly. In this case, this is a liability that exists at the end of the financial year. Furthermore, there may be impending losses from pending transactions — for example, for expected lower income from long-term contractual relationships that have been established or already existed in the past financial year. Additional provisions made in the event of a change in accounting to liquidation values are also to be accepted for tax purposes.

By contrast, lump-sum provisions for general coronavirus crisis risks in the financial statements 2019, which are not mandatory under accounting law but can still be formed are only occasionally accepted by the cantonal tax authorities. The following table gives an overview of the announcements made in this regard:

Canton	Provision	Scope of provision	Communication
AG	Yes	Max. 25% of net profit, max. CHF 250,000	27 March 2020
AR	No		23 April 2020
BE	No		April 2020
SG	No		7 April 2020
SZ	No		2 April 2020
TG	Yes	Max. 25% of net profit, max. CHF 1 million	3 April 2020
TI	No		20 April 2020
VD	No		April 2020
VS	Yes	Max. 50% of net profit, max. CHF 300,000	26 March 2020
ZH	No		17 April 2020
ZG	Yes	Max. 50% of net profit, max. CHF 500,000	3 April 2020

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