

Coronavirus Disease 2019 (COVID-19) – Dutch Government Issues Emergency Measures for Employers and Entrepreneurs

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New Measures Imposed by Dutch Government

1. Reduction of Working Hours Scheme is Replaced by Emergency Bridge Measure for Conservation of Work

On 17 March 2020, the Dutch government announced that exceptional economic measures must be taken in relation to the Coronavirus Disease (COVID-19) crisis. Part of the measures entail the withdrawal of the Reduction of Working Hours Scheme (*werktijdverkortingsregeling*). Under the Reduction of Working Hours Scheme, it was possible for employers to apply for a permit under which it could temporarily apply for unemployment benefits for its employees under the Unemployment Insurance Act (*Werkloosheidswet*) to prevent (collective) dismissals. The Reduction of Working Hours Scheme has been declared not to apply to the current situation and an Emergency Bridge Measure for Conservation of Work (*Tijdelijke Noodmaatregel Overbrugging voor Werkbehoud*) has been instated (the Emergency Measure).

Applications under the Reduction of Working Hours Scheme are no longer possible. Applications that have already been submitted will be processed under the Emergency Measure and additional information will be requested from employers. The Dutch government is yet to announce what this request for additional information will entail, but in any event the employer will have to provide financial information to determine the amount of compensation.

Under the Emergency Measure, an employer can apply with the Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen*, the UWV) for a compensation of the wage costs for its employees up to a maximum of 90% depending on the loss of turnover. The compensation can be requested for loss of turnover as of 1 March 2020 and for a period of three months with a possibility

for an extension – potentially on other conditions – for another three months. In contrast to the Reduction of Working Hours Scheme, the Emergency Measure will also apply to employees in relation to whom the employer has no obligation to continue salary payments, such as employees with zero-hours contracts and on-call contracts. Temporary working agencies can also apply for compensation of wage costs under the Emergency Measure.

Employers can apply for compensation of wage costs under the Emergency Measure if:

- The employer expects a minimum loss of 20% of turnover; and (on the condition that)
- The employer will during the compensation period not dismiss any employees due to business economic grounds.

The UWV will – if the compensation is awarded – pay 80% of the requested compensation in advance. This differs from the Reduction of Working Hours Scheme, under which the unemployment benefits would be paid to the employer after the term of the permit. Note that compensation under the Emergency Measure does not fall under the Unemployment Insurance Act and is a special compensation from the government for the wage costs of employees due to the COVID-19 crisis. The government has currently announced the following in relation to the calculation of the compensation:

- if 100% of the turnover is lost, the compensation amounts to 90% of the wage sum of an employer;
- if 50% of the turnover is lost, the compensation amounts to 45% of the wage sum of an employer;
- if 25% of the turnover is lost, the compensation amounts to 22.5% of the wage sum of an employer.

The government has indicated that compensation above a certain threshold amount – which amount is to be determined at a later stage – an audit opinion will be required. After the term in which the compensation has been awarded, a definitive determination will take place. After this determination, the remaining 20% of compensation will be paid, and a correction can be made in cases where there was a decrease in the total wage sum over the relevant period. It is still unclear when employers can file for the compensation under the Emergency Measure, but the government is trying to set up a system as soon as possible.

With the introduction of the Emergency Measure on 17 March 2020, the exemption from of the obligation to continue salary payment during a reduction of working hours (applicable since 1 January 2020) may no longer apply. As a consequence, employers that receive compensation under the Emergency Measure may have to continue the salary payment of their employees as usual.

Employers that already received a reduction of working hours permit may still apply for unemployment benefits and it is possible to apply for the Emergency Measure - if still needed - after the reduction of working hours permit has lapsed.

2. Emergency Support for Independent Workers

For independent workers an emergency social assistance benefit has been introduced. With this measure, independent workers may receive additional income support for living expenses. The emergency social assistance benefit will supplement the statutory social minimum. The amount of the statutory social minimum depends on the living and family situation and the maximum amount that can be received under the statutory social minimum is EUR 1,653.65 per month. No asset or partner income test will be done under the emergency social assistance benefit. Support under the temporary measure is also possible in the form of a working capital loan at a reduced interest rate.

Tax Payment Deferral

Dutch entrepreneurs affected by the economic consequences of COVID-19 may apply for an extraordinary deferral of payment for the levying of taxes or may request a reduced provisional income tax or corporate income tax assessment. In addition, the Dutch Tax Authorities (DTA) announced that the collection interest rate and the tax interest rate will temporarily be reduced. The announced tax measures are part of the actions that the Dutch government is taking to mitigate the economic impact of the coronavirus. The measures are explained in more detail below.

1. Application for Extraordinary Deferral of Payment

Businesses experiencing payment difficulties may apply for an extraordinary deferral of payment for corporate income tax, income tax, VAT, and wage tax. The deferral will be granted if the taxpayer provides a written statement reporting the challenges and issues it has encountered due to the COVID-19 crisis. As soon as the DTA receives a request for deferral, they will stop the collection of outstanding tax debts. Assessments of such requests by the DTA will take place at a later date. Please note that the usual requirements for a deferral of payment will continue to apply.

During the coming period, the Dutch tax authorities will waive or reverse default penalties for failure to pay, or timely pay, VAT, and/or wage tax. The time to process these requests may increase as the number of requests rises.

Within four weeks after filing of the request, an expert's statement (for instance external consultants, external financiers, sector organizations, auditors, or financial advisers) must be filed with the Dutch tax authorities evidencing that the payment difficulties are related to the COVID-19 outbreak. . The Dutch government has not yet announced the requirements for the contents of such statement.

2. Provisional Assessment

Entrepreneurs that expect lower taxable profits as a result of the COVID-19 crisis may apply for an immediate reduction of the provisional (corporate) income tax assessment. The DTA indicated that any request for a lower provisional assessment will be granted and that such requests can be filed through the regular channels.

3. Temporary Decrease of Collection Interest Rate and Tax Interest Rate

If a tax assessment is not paid or not paid in time, collection interest generally becomes due at a rate of 4% as of the moment the payment term lapses. The Dutch tax authorities announced that the collection interest rate will be decreased temporarily from 4% to 0.01% as from March 23, 2020. This reduced interest rate will apply to all tax debts.

Tax interest becomes due if the Dutch tax authorities have not been able to timely impose an assessment due to, for instance, a tax return not being filed in time or not being filed correctly. The current tax interest rate is 8% for corporate income tax and 4% for all other taxes. The tax interest rate will also be decreased temporarily to 0.01%. This reduced interest rate will apply to all taxes for which tax interest may become due and will apply as from June 1, 2020 (albeit that for personal income tax, the decreased rate will apply as from July 1, 2020).

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