



# Summary of measures announced in response to the spread of Covid-19

02/04/2020

The information contained in this summary is for general guidance only. The application and impact of laws can vary widely based on the specific facts involved.

Accordingly, the content of this summary is provided for information purposes. As such, it should not be used as a substitute for consultations with professional tax, legal or other competent advisers.

Given the current context, there may be delays, omissions or inaccuracies in the information contained in this summary. For updated developments regarding the measures implemented in each country, please refer directly to our local firms' websites and governmental official websites.

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In response to the spread of the Covid-19 virus, various business support measures have been put in place by many states.

The purpose of this document is to present a brief summary of the measures announced to date by the public authorities in the affected countries.

## 1. BELGIUM (UPDATED 02.04.20)

The federal and regional governments in Belgium have issued various measures to mitigate the economic consequences of the pandemic caused by the novel coronavirus after the government imposed a “lockdown light” as from March 18<sup>th</sup>, 2020, to slow down the spread of COVID-19.

Below is a succinct overview of the most important measures.

### 1.1. Tax measures

- **Automatic payment reliefs**

The federal government has announced an automatic two-month deferment of payment (without late payment interest becoming due) for **VAT and professional withholding taxes** that would normally be due in March and April.

Also with respect to the payment of **federal income taxes (personal income tax, corporate income tax, legal entities income tax and non-residents income tax)**, the usual payment terms are automatically extended with a period of two months (in addition to the ordinary payment term and without late payment interest becoming due) for all taxes assessed as of 12 March 2020.

**Customs & Excises** also amended the electronic customs portal PLDA and extended payment terms from one week to four weeks for (a) excise duties and packaging levy on alcohol and alcoholic and non-alcoholic beverages; and (b) import VAT. This extension of payment terms applies until 30 June 2020 and only to the abovementioned taxes in PLDA.

The **Flemish government** has announced that the **road tax** collection for the assessment year 2020 will be postponed for legal entities by four months. In addition, the assessment notices with respect to **real estate tax** which are usually issued in May, will be sent out as from September 2020 for legal entities. In this respect, the Flemish government allows the local authorities to lower their real estate tax surcharge. The Flemish Region also committed to a flexible policy with respect to the **request of payment plans**.

The **Brussels government** grants a relief for the so-called “**Brussels city tax**” on tourist accommodations for the first quarter of 2020. Moreover, the government announced that an automatic extension of two months would be granted for the payment of **real estate tax**.

The **Walloon Government** has indicated in a press release of March 18<sup>th</sup>, 2020, that **local taxes**, which are to be levied in the hands of enterprises which activities are impacted by the safety measures are suspended during the period of said measure. The government will grant a financial compensation to local governments to compensate their financial losses as a result of the suspended taxes. Moreover, taxpayers are granted a **payment deferral** during the COVID-19 crisis.

- **Federal payment reliefs upon request**

Additional support measures can be granted upon request to **enterprises which can demonstrate that they are affected by the spread of the coronavirus**. It concerns further deferrals of payment as well as waivers of late payment interest and fines with respect to corporate income tax, personal income tax, legal entities tax, VAT and professional withholding tax.

- **Accelerated refund of VAT credit for monthly filers**

Taxable persons that file their VAT returns on a monthly basis, are granted an accelerated refund of their VAT credit. The refund has to be requested in the VAT return, and will be paid on April 30<sup>th</sup> at the latest.

- **Postponement of filing deadlines**

The federal tax authorities have announced a **general extension of filing deadlines** for income tax returns that were due between 16 March and 30 April. With respect to VAT, automatic extensions are granted for the periodic VAT returns that were due in March and April 2020 as well as for client and intra-community listings.

The **Flemish government** also provide an additional period of two months for several obligations regarding **registration and inheritance duties**.

- **Corona crisis as a justification for write-downs of trade receivables**

In a Circular Letter of 23 March 2020, the federal tax authorities confirmed that the corona crisis constitutes a special circumstance which justifies (under certain conditions) the deductibility of the write-downs of trade receivables on companies which are facing financial difficulties due to the measures taken by the National Security Council and laid down in the ministerial decree of March 18<sup>th</sup>, 2020.

- **Encouraging donations of medical supplies**

Specific VAT and income tax measures encourage donations of medical supplies to listed healthcare institutions. For individuals, a tax deduction applies under certain conditions with respect to donations in kind made towards university hospitals and hospitals related to the Public Centre of Social Welfare.

- **Suspension of tax audits on the premises of the taxpayer**

The federal tax authorities announced a **suspension of non-essential or non-urgent tax audits at the premises of the taxpayer**. Only tax audits which are of interest for the financial needs of the Belgian State will be further carried out. Audits that are carried out remotely in principle continue.

## 1.2. Social measures (including HR Tax)

- **Social security – payment deferrals**

Also the different social security authorities have taken several measures to alleviate the consequences of the crises, including various possibilities for affected companies to request payment deferrals.

- **Temporary unemployment**

The conditions for the application of temporary unemployment due to *force majeure* have been relaxed, and a bridging right is available for the self-employed.

- **Temporary home working allowance**

As long as the “lockdown light” measures are in force, employers may grant a temporary home working allowance to their employees. This monthly allowance of maximum EUR 126.94 is free of tax and social security contributions. Every employee who works from home can benefit from this allowance, regardless of their position. Please note that for employees who already receive an expense allowance for telework, double use must be avoided.

These allowances are tax exempt in the hands of the employee and constitute a deductible expense in the hands of the employer. The ruling commission has published a model of a ruling request for employers who wish to request a ruling in this matter.

- **Telework & impact on cross-border employment**

The ministerial decree of 18 March 2020 forces all enterprises to facilitate teleworking, to the extent possible.

This measure impacts multiple frontier workers which are from now on obliged to (tele)work from their resident state. Hence, the applicability of tax regimes foreseen by certain double tax treaties to facilitate the taxation of the professional income of frontier workers could be impacted. The Belgian government has announced that the corona crisis constitutes a case of *force majeure* with respect to the specific regimes entered into with France and Luxembourg.

### 1.3. Financial measures

The federal and regional governments are taking several financial measures in the framework of the COVID-19 crisis, including:

- A federal **EUR 50 billion guarantee scheme** to ensure that lending to private individuals, the self-employed and business is continued.
- The credit institutions committed to provide business and mortgage borrowers **postponement of payment** until September 30<sup>th</sup>, 2020 without charge in case of liquidity problems due to the Corona crisis.
- The regional governments provide nuisance provide **premiums for business that have to stay closed** as a consequence of the lockdown light imposed by the federal government.

#### Useful links:

- Federal Ministry of Finance's website: click [here](#).
- Federal Social security authorities' website: click [here](#).
- Brussels tax authorities' website: click [here](#).
- Flemish tax authorities' website: click [here](#).
- Walloon authorities' press release: click [here](#).

*For updated information please contact your Taxand team in Belgium at <http://www.arteo.law>*

## 2. BRAZIL *(UPDATED 01.04.20)*

Despite of the resistance presented by President Bolsonaro to social isolation, federal ministries of Health and Economy have quickly established a series of measures to cope with the COVID-19 crisis. The most important measures were established by Provisional Measures proposed by the federal government which gave legal basis to normatives provided by other organs to deal with the economic and social crisis. The measures are centered in public expenditures in key areas, such as health and education; financial aid to vulnerable populations and to small businesses; job maintenance and facilitation of credit. Among others, we can mention the main following measures.

### 2.1. Tax Measures

#### ***Interruption of collection acts and facilitation on the renegotiation of debt contracted with public entities***

Authorizes the suspension, for up to 90 days, of processes related to recovery of debts owed to public entities, including the establishment of new collection procedures and the termination, by public entities, of debt installments that have been negotiated with tax payers.

#### ***Suspension of deadlines in judicial and administrative procedures as well of the state os limitations of the rights involved in such procedures.***

The suspension in all judicial courts prolongs to April 30<sup>th</sup> and to May 29 in procedures within the Federal Revenue Entity (*Receita Federal do Brasil*).

#### ***Extension of the period of validity of tax regularity documents***

The validity extension of 90 days refers to documents related to the absence of debts with the federal government.

#### ***Postponement of payment of the Social Contribution for Discharge of Employees (FGTS)***

The FGTS is a contribution levied on the employee salary and is payed monthly by Brazilian employers. The FGTS due in the months of April, May and June 2020 (related to salaries payed in March, April and May) will be postponed. The postponed payment of the FGTS may be payed in six installments.

#### ***Postponement of payment of federal taxes due by small companies under the Simples Nacional Program***

The federal taxes due in March, May and April by small and medium companies were postponed for a six months period.

#### ***Reduction of social contribution rates***

Reduction of approximately 50% of the “Sistema S” social contribution rates for a 3 months period. These contributions are levied on Companies’ revenues and are destined to certain private entities that develop social works.

#### ***Tax Exemption for medical and hospital products***

Exemption, valid until September 30<sup>th</sup>, of the Import Tax (levied on the import of goods) and the Tax on Industrialized Products (Excise Tax) levied on products goods that are considered important to the prevention of the COVID-19 and to the treatment of the infected patients.

***Postponement of the delivery date of the DCBE (declaration of goods owned abroad)***

Brazilian residents, (both companies and individuals), are obliged to deliver to Federal Revenue a statement declaring assets owned by the Brazilian resident that are located abroad. Because of the COVID-19 the delivery term is postponed to June 1<sup>st</sup> for residents that deliver the DCBE annually and postponed to July 15<sup>th</sup> for residents that deliver the DCBE quarterly.

**2.2. Social Measures*****Emergency aid to low-income informal workers***

A bill has been recently passed to aid the Brazilian population that finds itself in a situation of vulnerability due to the lack of economic movement caused by the social isolation. The aid value varies from BRL 600 to BRL 1,200 (as a comparison parameter the Brazilian minimum wage is of BRL 1,039) and will benefit approximately 30,5 million citizens (14% of the Brazilian population). Its cost will be of about BRL 59.9 billion to the public treasury.

***Anticipation of legally mandated bonuses to low-income workers and beneficiaries of the Brazilian Social Security***

According to Brazilian legislation, employees receive a yearly bonus of one salary and another yearly bonus of one salary to low-income workers, that receive up to two minimum wages. The Government has announced anticipations in such payments: the first portion of the Christmas Bonus payed by Social Security to retired workers and pensioners will be anticipated to May and the yearly bonus to low-income workers will be anticipated to June.

***New labor rules***

As a way of adapting to the new working environment presented by the COVID-19 crisis and the social isolation, Federal Government has proposed a Bill (a Provisional Measure) with the aim of preserving jobs and income. Such rules include the regulation of the home office, anticipation of individual and collective vacation, utilization and anticipation of holidays, suspension of administrative requirements in occupational safety and health.

***Procedures for acquisitions aimed at tackling the COVID-19 emergency***

New procedures for the acquisition of goods, services and inputs to cope with the public health emergency, such as: restriction to the entrance and exit of goods considered essential to coping with the crisis and exemption from public biddings on purchases of these essential goods.

***Destination of public reserves do the Ministries of Health, Education, Defense, External Relations and Science***

Federal Government has announced a BRL 5 billion credit to the Ministries of Health and Education and a BRL 3 billion credit to the Ministries of Defense, External Relations and Science. These credits are to be used to finance measures deemed necessary to tackle to COVID-19 crisis.

**2.3. Financial Measures*****Debt renegotiation facilitation***

Facilitation of the renegotiation of corporate and family debts by exempting banks from provisioning savings and by exempting banks from complying with certain Brazilian Central Bank (BACEN) requirements to undertake debt restructuring operations, counting that such operating is not already considered a problematic restructuring by the BACEN.

***Financial aid to small businesses***

Besides a BRL 5 billion credit line that the Government had already granted to small business, Federal Government has more recently announced a BRL 40 billion public credit line to be granted to small business in order to help them pay salaries and survive cash flow problems generated by the COVID-19 crisis. It will be granted up to two salaries per employee to each participating business. These measurements are expected to generate a BRL 637 Billion raise in granting of credit capacity.

***Diminishment of interests***

Interests of loans contracted by Social Security beneficiaries have been diminished.

*For updated information please contact your Taxand team in Brazil at [https://www.garrigues.com/en\\_GB/office/sao-paulo](https://www.garrigues.com/en_GB/office/sao-paulo)*

### 3. CHINA (UPDATED 02.04.20)

National state level authorities, including the Ministry of Finance (MOF), the State Taxation Administration (SAT) and the General Administration of Customs (GAC), together with provincial and local governments, have reacted quickly to set out a string of tax reliefs and other preferential measures to support enterprises and citizens.

#### 3.1. Tax measures

- **Protective treatments and supplies**

Equipment expenditures, which are incurred to increase production capacity by companies engaged in the production of **key supplies for epidemic prevention and control**, are allowed to full CIT deduction in a single year and apply for full refund of incremental retained VAT on a monthly basis. Allowances and bonuses obtained by individuals participating in the epidemic control and prevention, and medicines and medical supplies given out to individuals for the purpose of prevention of coronavirus COVID-19 will be **exempted** from China **Individual Income Tax (“IIT”)**.

- **Donations**

In the tide of many companies and individuals are actively making donations of money and goods to help fight against COVID-19, Chinese government also quickly guaranteed the exemptions for the donors.

These exemptions cover goods donated through charity organizations, government authorities, or directly donated to the hospitals which leading coronavirus containment are entitled to be **exempted from VAT and Surtax**.

Besides, the donations made by enterprises or individuals through qualified organizations or government authorities can be **fully deducted for CIT and IIT** purposes as well.

- **Loss-carried-forward**

In order to cushion the impacts to businesses and economy, Chinese government is also working hard to reduce the tax burden on all sectors.

For industries that were significantly affected during the outbreak, especially for **transportation, catering, accommodation and tourism**, CIT losses incurred in 2020 will be extended **from five years to eight years**.

- **VAT on small-scaled**

Going further, China’s State Council has also decided to exempt VAT for **small-scaled taxpayers** in Hubei province (where Wuhan locates in) and reduced the VAT collection rate **from 3% to 1%** for small-scaled taxpayers in other areas, from March 1<sup>st</sup> to May 31<sup>st</sup>, 2020.

#### 3.2. Social measures

The Chinese government provides a lot of **Social Security deferral payment and subsidies**.

They responded by deferring payments and subsidized the small and medium-size enterprises’ rates and the Social Security payments.

For updated information please contact your Taxand team in China at <https://www.hendersen.com/>

#### 4. FRANCE (UPDATED 02.04.20)

The emergency bill n° 2020-290 to deal with the Covid-19 pandemic promulgated on March 23rd empowers the French Government to implement the measures previously announced through ordinances.

This presentation summarizes the tax, social and economic support measures for businesses as announced by the emergency bill to address the epidemic of Covid-19 and specified by the order dated April 2<sup>nd</sup>, 2020.

##### 4.1. Tax measures

###### **Deferred payment and payment extensions for tax deadlines**

**Relevant companies:** all companies subject to direct taxes (CIT, EAVC, ELC, ST);

- Companies may benefit from the measures described below regardless of their cash position. However, the government is encouraging companies that do not have difficulties to meet the deadlines initially set in the name of national solidarity.

**Deferred payment of the CIT instalments from March 15<sup>th</sup> to June 15<sup>th</sup> for all companies without any conditions:**

- If the CIT instalment has not been paid yet: possibility to reject the direct debit at the bank or online;
- If the CIT instalment has already been paid: possibility to ask for a refund to the competent tax services.

In practice: fill in the form provided by the DGFIP, specifying in the « amount » box in part **1) Deferral of tax payment** « *instalment already paid for refund* ».

**EAVC, ELC and property tax payments:** possibility to suspend payments on the business tax account.

**Withholding tax for self-employed workers:** possibility to modulate the rate and the instalments of withholding tax and or to defer the payment of the instalments of withholding tax on professional income from a monthly to a quarterly payment or from a quarterly to a bi-annual payment.

Possibility to obtain tax rebates, penalties and interest rebates for late payment if the deferrals are not sufficient in view of the company's difficulties, provided that concrete information is provided on the company's financial situation (box 2 of the form provided by the DGFIP).

Taxes not covered by these measures:

- VAT
- income tax of employees (withholding tax)
- excise duties on wine and spirits.

**NB:** With regard to VAT, the Ministry of Action and Public Accounts specified at a conference held on 19 March that deferred payments could be considered on a case-by-case basis for VAT invoiced but not collected by the debtor.

However, the DGFIP could authorize businesses to pay a flat-rate amount of VAT in the following cases:

- 80% of the previous month's VAT for businesses in operation but having difficulties in making their declarations;
- 50% or less of the previous month's VAT for businesses that can demonstrate a decrease in activity.

### ***Tax audits and collections***

The order n°2020-306 on the extension of time limits during the health emergency period and the adaptation of procedures during the same period provides details on the procedures for conducting tax inspections and collecting tax claims.

#### **Suspension of time limits for tax audits:**

- **Suspension of the limitation and recovery periods** expiring on **December 31<sup>st</sup>, 2020** for a period equal to the period between March 12<sup>th</sup>, 2020 and the expiry of one month from the end of the state of public health emergency (*i.e.* **June 24<sup>th</sup>, in principle**, unless the state of public health emergency is extended by law).
- Suspension during the same period for the taxpayer and for the services of the tax administration of **all time limits provided for the conduct of control** and investigation procedures in tax matters
  - No decision of the administrative authority is required for this suspension to apply.
  - **Declarations used for the assessment**, assessment basis, liquidation and recovery of duties and taxes **are not affected** by suspension or deferral measures.

**The time limits applicable to the recovery and contestation of public claims provided for under penalty of nullity**, lapse, foreclosure, limitation, unenforceability or forfeiture of a right or action shall be suspended:

- All receivables for which the public accountants are responsible for recovery are concerned
- The applicable deadlines are suspended for the duration of the state of public health emergency plus three months (*i.e.* **from March 12<sup>th</sup>, 2020 to August 24<sup>th</sup>, 2020** in principle).

### ***Other tax measures***

**Possibility of obtaining tax rebates**, penalties and interest on arrears if the deferrals are not sufficient in view of the company's difficulties, provided that concrete information is provided on the company's financial situation (box 2 of the form provided by the DGFIP).

**Extension of the deadline for filing tax packages:** the DGFIP has announced that tax packages may be filed until **May 31<sup>st</sup>, 2020.**

#### **Invoices awaiting payment from public services:**

- Commitment by the administration to speed up the repayment of outstanding debts (CIR, VAT credits, etc.) and the payment of invoices awaiting payment by the State, local authorities and public bodies.
- Practical modality: Companies can use box 3 of the form provided by the DGFIP.

## **4.2. Social measures**

### ***Deferral of all or part of employee and employer contributions***

**Relevant social contributions:** all social taxes and contributions to be paid to the URSSAF (employers' and employees' contributions) by March 15<sup>th</sup>, 2020 and in particular:

- Social security contributions (sickness, maternity, invalidity and death, old age, family, work accidents and work diseases);
- Autonomous solidarity contribution ("CSA");
- Social contributions ("CSG" and "CRDS");
- Unemployment insurance contribution;

- Salary guarantee contribution.

#### Terms of the deferral:

- As of right and not sector-based (no justification to be provided to the URSSAF);
- Deferral up to 3 months without penalty or late payment surcharge;
- Possibility for the employer to not opt for the deferral of the contributions with a payment of the employee's contributions and spacing out of the employer's contributions as usual.

#### Procedure:

- **URSSAF deadline of March 5<sup>th</sup>, 2020:** no practical arrangements planned for amending the *Déclaration Sociale Nominative* ("DSN" form) afterward. However, it seems to us that it is possible to request a gracious refund of contributions already paid without changing the content of the DSN return.
- **URSSAF deadline of March 15<sup>th</sup>, 2020:** possibility for employers to modulate their payments according to their needs (amount at 0 or corresponding to a part of the contributions).
  - If the employer has not yet submitted online the DSN for the February 2020 payroll: possibility of submit it up to March 16<sup>th</sup> (included) by modulating the SEPA direct debit.
  - If the employer has already filed the February 2020 DSN: possibility to modify it by filing a "cancel and replace" DSN up to March 15<sup>th</sup> (included) or to modify the payment without modifying the DSN according to an exceptional procedure available on the URSSAF website up to March 19<sup>th</sup> at noon.
  - If the employer pays the contributions without the DSN (for example via employment service company vouchers): possibility to adapt the amount of the bank transfer or not to make the transfer.
- **URSSAF deadline of April 5<sup>th</sup>, 2020:** possibility for employers to modulate their payments according to their needs (amount at 0 or corresponding to part of the contributions).
  - If the employer pays his contributions outside the DSN, by bank transfer: possibility of adapting the amount of his transfer, or not to make a transfer at all;
  - If the employer pays its contributions via the DSN: the employer must forward the March 2020 DSN by **Monday April 6<sup>th</sup>, 2020 at noon** and can modulate its SEPA payment within this DSN.
- **In the event of a current deadline agreement with URSSAF:** failure to comply with payment of the time limit schedule automatically leads to the postponement of that current due date, without penalty and without any request to be made by the contributor.

#### Deferral measures for the self-employed

- The contributions to be paid on March 20<sup>th</sup> will not be levied by the URSSAF, but the amount will be smoothed over subsequent due dates, unless there are contrary measures implemented in the future;
- In addition, self-employed workers may ask for:
  - Payment extensions (including in advance) without any surcharge or penalties;
  - An adjustment of their contribution payment schedule to take account of a decrease in their income;
  - The intervention of the Social Action ("*Action Sociale*") for the partial or total coverage of their contributions or for the allocation of an exceptional financial aid.

### **Deferral measures for the Very Small Enterprises (VSEs):**

- If the declaration for February (due on March 31<sup>st</sup>, 2020) has already been filed: possibility to modify the declaration and to modulate the due amount at 0, so that no contribution will be levied;
- If the declaration for February has not been filed: possibility to file the declaration until March 31<sup>st</sup>, 2020 with an amount at 0, so that no contribution will be levied;
- In addition to these measures, VSEs may apply to the Social Action for the partial or total coverage of their contributions or for the allocation of an exceptional financial aid.

### **AGIRC - ARRCO contributions (next deadline on March 25<sup>th</sup>, 2020)**

**A mechanism similar to the one set up for the URSSAF**, i.e. an automatical deferral of employers' and employees' contributions **is being implemented**.

#### **Relevant contributions:**

- AGIRC-ARRCO supplementary pension contributions;
- General balancing contribution AGIRC-ARRCO;
- Exceptional and temporary contribution AGIRC-ARRCO;
- APEC contribution due for other executives.

**Even companied paid their URSSAF contributions paid on March 5<sup>th</sup> or March 15<sup>th</sup>, 2020, they may defer payment of their AGIRC-ARRCO contributions:**

- If the SEPA payment was submitted in the DSN: possibility to revise downwards the AGIRC-ARRCO amount initially indicated in the DSN or to request its cancellation.

**NB:** This action must be carried out via the **Cotizen** online service by Thursday March 19<sup>th</sup>, 2020 at the latest in order to be taken into account before the deadline of March 25<sup>th</sup>.

For companies paying their contributions by bank transfer, they have until March 25<sup>th</sup>, 2020 to modify the amount of their payment afterwards.

If the company pays the AGIRC-ARRCO contributions without the DSN (for example via employment service company vouchers): possibility to adapt the amount of the payment according to its needs.

Companies that have not yet filed the **February 2020 DSN** (deadline on March 5<sup>th</sup> or March 15<sup>th</sup>): possibility of filing the DSN by adapting the amount of the AGIRC-ARRCO payment (amount at 0 or corresponding to a part of the contributions).

### **Easier recourse to part-time activity**

#### **Shorter processing time for the prior request for a part-time activity authorization**

- Companies may apply for the part-time activity scheme under exceptional circumstances (Article R. 5122-1 of the French Labor Code), specifying in particular the reasons justifying the recourse to part-time activity, the foreseeable period of under-activity and the number of employees concerned.
- The setting up of the part-time activity is subject to a prior request which is normally processed within 15 days maximum.
- The government has specified that requests related to Covid-19 will be processed on a priority basis within 48 hours. If there is no response within 15 days, the request for part-time activity will be considered to be accepted.

### Compensated short time working

- In practice, a company that implements short time working pays its employees 84% of their net hourly wage and the allowance must be at least equal to the minimum wage.
- The allowance is reimbursed by the State under certain conditions provided by Decree n° 2020-325 from March 25th, 2020 on part-time activity:
  - The allowance is not a lump sum anymore but is now proportional to the remunerations of employees (articles R.5122-12 and D. 5122-13 of the French Labour Code);
  - It covers 70% of the gross remuneration and is limited to 4,5 times the minimum wages with a minimum of 8,03 €, regardless of the company's workforce;
    - The 8.03 € limit does not apply to apprentices and employees working under a professionalization contract ("*contrat de professionnalisation*"). Benefit of the allowance is extended to employees whose working time is determined on the basis of hours or days per year. A Decree will provide more information regarding calculation of the allowance paid to the employer in such case in the upcoming days.

### Emergency leave measures

The emergency measures relating to holidays and working hours are specified in the **order n°2020-323 on emergency measures relating to paid holidays, working hours and rest days**.

**Paid leave:** the employer may unilaterally impose or change the dates on which part of the employee's paid leave is to be taken by derogating from the notice periods laid down in the Labour Code and in the collective agreements and conventions applicable in the enterprise:

- The possibility of imposing / modifying the dates on which paid holidays are taken is subject to a **company or branch agreement**.
- In addition, this agreement may authorize the employer:
  - to split leave without the employee's consent, and
  - to fix the dates of leave without being obliged to grant simultaneous leave to spouses or partners bound by a civil solidarity pact working in the same company.
- The number of days of leave imposed/modified by the employer is limited to a maximum of 6 days
- The employer must respect a notice period of one clear day
- The period of leave imposed or modified may not extend beyond December 31<sup>st</sup>, 2020

**Days of reduced working time, rest days provided for in flat-rate agreements and rest days assigned to the time savings account:**

- The employer may impose or unilaterally modify, on dates determined by him, the taking of rest days at the choice of the employee who has acquired them
- The employer must respect a notice period of at least one clear day
- The total number of days of rest that the employer may require to be taken or may change the date of rest is limited to a maximum of 10 days
- The period for the taking of rest days imposed or modified may not extend beyond December 31<sup>st</sup>, 2020

### ***Emergency measures concerning working hours and days of rest***

The measures described below concern **companies in sectors particularly necessary for the security of the nation or the continuity of economic and social life.**

- The companies concerned will be defined by decree.

#### **Working time measures:**

- The **maximum daily working time** (ten hours) may be extended to **twelve hours**.
- The **maximum daily working time** performed by a **night worker** (eight hours) may be extended to **12 hours**, subject to the granting of compensatory rest equal to the excess of the maximum duration provided for in the Labour Code.
- The **daily rest period** (eleven consecutive hours) may be reduced to **nine consecutive hours** subject to the granting of compensatory time off equal to the duration of the rest the employee was unable to take.
- The **maximum weekly duration** (forty-eight hours) may be extended to **sixty hours**.
- Any employer making use of at least one of the permitted derogations must inform the Social and Economic Committee and the Regional Director of Enterprise, Competition, Consumer Affairs, Labour and Employment without delay and by any means.
- The implemented derogations will cease to have effect on **December 31<sup>st</sup>, 2020**.

#### **Measures concerning Sunday rest:**

- Employers may derogate from the Sunday rest rule by allocating the weekly rest period in shifts.
- This derogation also applies to companies which provide services in sectors which are particularly necessary for national security or for the continuity of economic and social life with the services necessary for the performance of their principal activity.
- The implemented derogations will cease to have effect on **December 31<sup>st</sup>, 2020**.

### ***Other social measures***

#### **Adjustment of the payment deadlines for profit-sharing and incentive payments:**

- For companies with a financial year corresponding to the calendar year, these sums should be paid to the beneficiaries or allocated to an employee savings plan or a blocked current account before June 1<sup>st</sup>, 2020.
- The order n°2020-322 temporarily adapting the terms and conditions of the additional compensation provided for in Article L.1226-1 of the French Labor Code and modifying, on an exceptional basis, the dates and terms and conditions of payment of the sums paid under the profit-sharing and incentive schemes extends this deadline to **December 31<sup>st</sup>, 2020**.

#### **A bonus of 1,000 euros to employees who work during the covid-19 crisis:**

- The emergency law to deal with the covid-19 epidemic empowers the government to change the deadline and conditions of payment of the exceptional purchasing power bonus ("Macron bonus").
- The government is considering removing the requirement to use a profit-sharing agreement to pay this bonus.

#### **Childcare work stoppages**

- Employees working in the public service will be able to stop and look after their children:
  - Benefit of a special leave of absence;

- Guaranteed compensation equal to 100% of net salary
- Employees working in the private sector will benefit from better compensation:
  - In principle, the current rules on sick leave do not guarantee that employees' pay is maintained: the allowance is equal to 50% of the salary below the social security ceiling of approximately 3,500 euros and only those whose collective agreement or the rules applied in the company provide for it are entitled to income maintenance.
  - The government has announced its intention to increase the compensation by the Social Security National to 90% of net salary.

#### 4.3. Financial measures

##### ***Creation of a solidarity fund for the companies***

The terms and conditions relating to the solidarity fund are laid down in the order n°2020-317 setting up a solidarity fund for companies particularly affected by the economic, financial and social consequences of the spread of the covid-19 virus and the measures taken to limit this spread, and a draft implementing decree.

**Duration of the fund:** The solidarity fund is established for three months, but its duration may be extended by decree for a maximum of three months.

**Eligible enterprises** are those which cumulatively fulfil the following conditions:

- Businesses, natural persons exercising a regulated or unregulated self-employed activity as a regular occupation and legal persons governed by private law<sup>1</sup>; and
- Turnover for the most recently completed financial year of less than 1 million euros (or monthly turnover of less than 83,333 euros for companies that have not yet completed a financial year)<sup>2</sup>; and
- The company was subject to an administrative ban on receiving the public between the 1st and the 31<sup>st</sup> of March 2020 or belongs to a sector listed in the appendix and whose turnover fell by at least 70% between March 2019 and March 2020. If the company is more recent, the decrease is calculated in relation to the average of the previous months.

##### **Amount of compensation paid by the State:**

- Lump-sum compensation of 1,500 euros;
- If the loss is greater: aid equivalent to the amount of lost turnover during the period compared with the same period of the previous year (or compared with the average monthly turnover of the previous year over its entire period of activity if the enterprise was created after March 1<sup>st</sup>, 2019).

##### **Formalities to be completed in order to benefit from the compensation:**

- Submission of a request on a dematerialized form made available by the General Directorate of Public Finance by May 31<sup>st</sup>, 2020 at the latest. This request specifies the identity of the declarant, the unique identification number of the company and the internal classification number, the amount of turnover for the reference periods and the amount of aid requested.
- Application accompanied by a declaration on honor that the company meets the eligibility requirements and a GNI.

<sup>1</sup> These companies must not control or be controlled by one or more commercial companies within the meaning of Article L.233-3 of the French Commercial Code.

<sup>2</sup> For companies under the non-business profits scheme, the maximum taxable profit threshold has not yet been defined.

- Demande accompagnée d'une déclaration sur l'honneur attestant que l'entreprise remplit bien les conditions d'éligibilité ainsi que d'un RIB

**Firms may also apply for additional aid in the following ways:**

- **Eligibility requirements:**
  - As of February 1<sup>st</sup>, 2020, the company employs at least one employee on a fixed-term or permanent contract;
  - As at March 31<sup>st</sup>, 2020, the company is unable to settle its debts due within 30 days;
  - It has been refused a loan of a reasonable amount by a bank of which it is a customer as of February 1<sup>st</sup>, 2020.
- **Amount of the aid:** the difference between the amount due within 30 days of March 31<sup>st</sup>, 2020 and the company's available cash flow, up to a maximum of 2,000 euros.
- **Formalities to be completed:**
  - Request made to the region. The application specifies the identity of the company, its unique identification number and the internal filing number.
  - The application shall be accompanied by:
    - A declaration on honor that the company meets the eligibility requirements;
    - A substantiated estimate of its cash shortfall;
    - A brief description demonstrating the imminent risk of bankruptcy;
    - The name of the bank of which the company is a client that has refused a loan and

**State guarantee of up to € 300 billion**

Mobilization of BPI France to guarantee bank lines of credit that companies may need as a result of the epidemic:

- *The guarantee will be granted to loans granted by credit institutions and finance companies to non-financial companies registered in France;*
- *The guarantee is exercised within the limit of a total guaranteed outstanding amount of 300 billion euros;*
- *The financing is unsecured up to 25% of the last turnover of the companies concerned;*
- *No guarantee or assumption is required from the companies;*
- *Repayment should be spread over a period of 1 to 6 years;*
- *The annual rate of credit should not exceed 1.5%.*

**Suspension of energy, water and rent bills**

The rules for suspending electricity, water, gas and rent bills are set out in the order n°2020-316 on the payment of rent, water, gas and electricity bills relating to the business premises of companies whose activity is affected by the spread of the covid epidemic-19.

**Eligible companies:** those meeting the conditions for benefiting from the Solidarity Fund.

**Measures prohibiting the interruption or suspension of the supply** of electricity, gas and water to the companies concerned:

- Duration of the measure: from the entry into force of the order until the date of cessation of the state of public health emergency declared by Article 4 of Law n° 2020-290 of 23 March 23<sup>rd</sup>, 2020, i.e. May 24<sup>th</sup>, 2020
  - Note: The law provides that the duration of a state of health emergency may be extended by a law.
- Possibility for the companies to request the staggering of the payment of the corresponding invoices due until the date of cessation of the state of health emergency:
  - **Suppliers concerned:**
    - providers and services distributing drinking water on behalf of the competent municipalities;
    - electricity and gas suppliers serving more than 100,000 customers;
    - electricity suppliers operating in areas not interconnected to the continental metropolitan grid;
    - local distribution companies.
  - **Methods of payment of deferred due dates:** equal distribution over the due dates of payment of subsequent invoices over six months from the month following the end of the state of health emergency.

**Measures concerning rents:**

- **Prohibition** of the application of financial penalties or interest for late payment, damages, periodic penalty payments, enforcement of termination clauses, penalty clauses or any clause providing for forfeiture, or activation of guarantees or sureties due to non-payment of rents or rental charges
- **Premises concerned:** professional and commercial premises
- **Rents concerned:** rents due for payment between March 12<sup>th</sup>, 2020 and two months after the end of the state of health emergency (i.e. **in principle July 24<sup>th</sup>, 2020**).
  - In contrast to the provisions on energy and water bills, the order does not lay down

**To be noted:** On March 21<sup>st</sup>, 2020, the Minister of Finance announced an agreement with the main federations of landlords and the “*Caisse des dépôts et consignations*” (Public investment institution) in favor of **very small businesses and SMEs forced to close down by the decrees of the 14<sup>th</sup> and 15<sup>th</sup> of March**. Under the terms of this agreement:

- The collection of rents and charges is suspended from April 1<sup>st</sup> and until activity resumes;
- The lessors will propose repayment schedules without penalties.

***Measures to relax the rules applicable to the execution of public contracts***

**Measures to relax the rules applicable to the execution of public contracts** provided for in the order n°2020-319 on various measures to adapt the rules for the award, procedure or execution of contracts subject to the code of public procurement and public contracts not covered by it during the health crisis caused by the covid-19 epidemic:

- **Contracts covered:** contracts subject to the Public Procurement Code and public contracts in progress or concluded during the period from March 12<sup>th</sup>, 2020 until the end of the second month following the end of the state of health emergency.
- Contracts **whose term of execution** expires during this period may be extended beyond the maximum term set by the public procurement code.

- Buyers may, by means of an amendment, **modify the conditions of payment of the advance**. Its rate may be increased to an amount greater than 60% of the amount of the contract or purchase order.
- When the holder is **unable to execute all or part of a purchase order or contract** (*i.e.* if he demonstrates that he does not have enough means at his disposal or that their mobilization would place a manifestly excessive burden on him):
  - The holder cannot be sanctioned, nor can he be subject to contractual penalties, nor can he be held contractually liable on this ground;
  - **The purchaser** may conclude a substitution contract with a third party to satisfy those of his needs which cannot suffer any delay without being prevented by a possible exclusivity clause binding him to the holder and without his contractual responsibility

Other measures to support the economy

**Support from the State and the Banque de France (credit mediation)** to negotiate a rescheduling of bank loans

**Support in the handling of a conflict** with customers or suppliers by the Business Ombudsman

**Support measures for start-ups** for a total amount of 4 billion euros:

**Specific loans** with the assistance of Bpi France for a total amount of million euros:

- These loans are aimed in particular at start-ups in the refinancing phase;
- They will be delivered only as a complement of an equal investment by the historical investors (e.g. a loan of 1 million euros if the investors also provide financing of 1 million euros).

**Advance payment of CIR** (estimated at 1 billion euros)

**Total release of aid earmarked** for the sector and provided for under the Future Investment Plan (estimated at 250 million euros)

Financing of **zero-interest loan aid**, the overall amount of which has been increased to 1.3 billion euros.

### **Commitment for large companies**

The Ministry of Finance announced the setting up of a commitment of responsibility for large companies benefiting from the deferral of fiscal and/or social charges or from public aids.

This commitment applies to companies which employed, during the past financial year, at least 5,000 employees or had a turnover exceeding 1.5 bn €.

These companies will have to commit (i) not to distribute any dividend (in cash or in kind) in 2020 to their shareholders in France or abroad and (ii) not to buy back their own shares in 2020.

This measure does not apply to:

- companies that have a legal obligation to distribute dividends (e.g. some real estate companies);
- intercompany dividends when they are meant to financially support a French company;
- distributions decided before March 27<sup>th</sup>, 2020.

### **Formalization of the commitment:**

- Deferral of direct taxation: the companies commit themselves by filing a request for deferral return on the website [impots.gouv.fr](http://impots.gouv.fr) and ticking the appropriate box;
- Deferral of social contributions: the companies commit themselves by sending a message (it can be an e-mail) addressed to the URSSAF;

- Loan guaranteed by the State: a termination clause (“*clause résolutoire*”) shall be introduced in the loan agreement when it is reviewed by the services of the Minister of Economy and Finances.

**Penalties:** should a company not comply with its commitment, a surcharge applicable for non-payment of taxes and contributions would apply (5% surcharge + 0.2% for each month of delay). The company would also lose the benefit of the State guaranty and deferrals obtained, and would have to settle unpaid sums immediately.

**Useful links:**

- French Government's website : click [here](#).
- French Ministry of Finances' website : click [here](#).

*For updated information please contact your Taxand team in France at <https://www.arsene-taxand.com/>*

## 5. GERMANY (UPDATED 02.04.20)

On March 13<sup>th</sup>, 2020, the **German Minister of Finance and Minister of Economic Affairs** announced a package of measures to reduce the economic consequences of the Covid-19 virus<sup>3</sup>.

### 5.1. Tax measures<sup>4</sup>

- **Simplification of tax deferrals** if their collection would lead to significant hardship.

The German revenue authorities will be instructed to not impose strict conditions in this respect for taxes due until December 31<sup>st</sup>, 2020. The tax authorities will be instructed, generally, to waive interest for delayed payments in this respect.

- **Simplification of adaptation of tax prepayments**

As soon it becomes clear that a taxpayer's income in the current year is expected to be lower than in the previous year, tax prepayments will be reduced in a swift and straightforward manner.

- **Enforcement measures** (e.g. attachment of bank accounts) and **late-payment penalties** will be waived until December 31<sup>st</sup>, 2020 if the debtor of a pending tax payment is directly affected by the Covid-19 virus.
- It has also been instructed to the administrations in charge of the **energy duty, aviation tax, insurance tax and VAT** to make **appropriate concessions** to taxpayers.

### 5.2. Social measures

**Starting from March 1<sup>st</sup>**, the rules on, reduced hours will be loosened:

- **Coverage of 60% of net salary** in case of short-term work for a period of up to 12 months (extension to 24 months possible);
- Reduction of the **minimum ratio of the employees** in a company affected by shorted working hours to 10%;
- Partial or complete waiver of the need to build up a negative balance in working hours;
- Reduced hours compensation benefit will also be available to **temporary/agency workers**;
- Complete reimbursement of **social security contributions** linked to reduced hours.

### 5.3. Financial measures

- **Measures relating to the granting of cheap loans:**

- Loosening of the conditions for specific loans for existing companies (*KfW-Unternehmerkredit*) and startups (*ERP-Gründerkredit-Universell*) through raising the level of risk assumptions for operating loans of up to 80% and extending these instruments to large enterprises with a turnover up to € 2 billion (previously, the limit was € 500 million);
- In the case of the "KfW Loan for Growth", a program aimed at larger companies, the current **turnover threshold** of € 2 billion will be raised to € 5 billion.

In the future, these loans will take the form of **syndicated loans** and will not be restricted to projects in one particular field (in the past, only innovation and digitalization projects were eligible).

Risk assumption will be increased to up to 70% (from 50%).

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<sup>3</sup> Press release of the German Minister of Finance and Minister of Economic Affairs dated March 13<sup>th</sup>, 2020, « A protective shield for employees and companies ».

<sup>4</sup> With decree dated March 19<sup>th</sup>, 2020 the Federal Ministry of Finance as instructed the local tax authorities to apply the described tax measures.

- For companies with a turnover of more than € 5 billion, support will continue to be provided on a case-by-case basis.
- **Measures relating to bank guarantees**
  - Doubling of the **guarantee limit** for guarantee banks (*Bürgschaftsbanken*) to € 2.5 million and increase of the risk share of the Federation by 10%.  
Increase from 35% to 50% of the operating resources in guarantee banks' total exposures.  
The Federation is giving guarantee banks the freedom to make guarantee decisions up to € 250,000 independently and within a period of three days.
  - Extension of the large guarantee program, originally limited to companies in structurally weak regions, to companies in other regions.  
In this program, the Federation covers operating loans and investments with a surety requirement upwards of € 50 million and a guarantee up to 80%.
  - Launch of additional support programs for companies that have temporarily got into serious financial difficulties because of the crisis and therefore do not have easy access to existing support programs through increasing the *Kreditanstalt für Wiederaufbau's* (KfW – Public German bank) risk tolerance.
  - The German government is establishing an **Economic Stabilization Fund** (*Wirtschaftsstabilisierungsfonds*) that is targeted in particular towards large companies, i.e.
    - balance sheet total of more than € 43 million,
    - sales revenues of more than € 50 million and
    - more than 249 employees on an annual average.

The fund supplements the liquidity assistance programs that have already been adopted as part of KfW's special programs. The fund encompasses:

    - €100 billion for equity measures
    - €400 billion for guarantees
    - up to €100 billion to refinance existing KfW special programs
- **Grants to cover liquidity shortfalls**
  - Small businesses, freelancers and the self-employed shall receive **one-time grants** to cover operating costs for three months. The grants do not have to be paid back and are designed to involve as little red tape as possible.
  - The following grants are provided by the Federation:
    - Self-employed persons and businesses with up to 5 employees will receive up to **€9,000**
    - Self-employed persons and businesses with up to 10 employees will receive up to **€15,000**
  - The federal program supplements other programs that have already been adopted by the *Länder*, i.e. the *Länder* may provide further grants.

#### Useful links:

- Federal Ministry of Finance's website: click [here](#).

For updated information please contact your Taxand team in Germany at <https://www.fgs.de/>

## 6. INDIA (UPDATED 02.04.20)

The Indian government and the Reserve Bank of India/ Central Bank have announced a slew of measures over the past fortnight to reduce the economic consequences of Covid-19 on business, legal/ statutory and financial fronts respectively.

### 6.1. Tax Measures

Various compliance relaxations and financial reliefs have been promulgated through a Taxation & Other Laws Ordinance. The effect of the said action is as under:

- **Statutory compliances**

The due dates for various compliances such as tax payments, filing of returns etc, have been extended to June 30<sup>th</sup>, 2020. The deferral is coupled with waiver of/ lower interest rates.

A complete waiver of penalties and other fee for non-compliances during the affected period has also been announced.

- **Vivaad Se Vishwas (Direct Tax) Amnesty Scheme**

The phase 1 of the scheme, otherwise expiring on March 31<sup>st</sup>, 2020 allowing highest possible relief under the scheme has been extended till June 30<sup>th</sup>, 2020

- **Extension of limitation period for other statutory actions**

Extension of limitation period for actions such as issuance of notice, filing of appeal/ applications/ references, furnishing of returns/ statements/ information/ declarations under various tax laws.

- **Savings & contributions**

The deadline for payment to any savings scheme or other contributions eligible for deduction from taxable income has been extended up to June 30<sup>th</sup>, 2020.

- **Setting up PM CARES fund**

The Government has set up a specified fund, PM CARES, for providing relief to the persons affected due to the outbreak of the pandemic. Contributions to the fund would be eligible for a 100% deduction from taxable income.

- **GST e-invoicing as well as QR code implementation**

Implementation deferred to October 1<sup>st</sup>, 2020

### 6.2. International Trade/ Customs Measures

- **Foreign Trade Policy and procedures**

- India has extended its Foreign Trade Policy 2015-20 up to March 31<sup>st</sup>, 2020
- Period to claim incentives, exemptions, benefits, etc over the intervening period of February to July 2020 has been extended by 3-12 months
- Likewise, period to fulfill obligations corresponding to benefits/ exemptions/ incentives availed under the policy, due for expiry between February to July 2020 has also been extended by 3-9 months
- Various periodic filings (such as obligation fulfilment status, performance reports, etc), validity of status certificates has also been suitably extended

Appropriate customs notifications to give effect to policy changes above have also been issued.

- **Prohibition of Export**

- Export of sanitizers/ All ventilators including any artificial respiratory apparatus or oxygen therapy apparatus/ any other breathing appliance/device prohibited
- Export of hydroxychloroquine and its formulations has been prohibited. Exception of (a) any past obligations or (b) export by Government of India on humanitarian grounds are noted

- **Other facilitation**

- 24 x 7 Custom Clearance till June 30<sup>th</sup>, 2020
- Relief in case of delayed clearance of consignments, by importers, in form of waiver of late fee and penalty

- **Extension of limitation period for other statutory actions**

Extension of limitation period for actions such as issuance of notice, filing of appeal/ applications/ references, furnishing of statements/ information/ declarations under various customs & allied laws.

### 6.3. Financial Measures

- Central Bank lending rates reduced by 75 basis points to 4.4%, cash reserve ratio also slashed by 100 basis points to 4%
- Central Bank prioritizing liquidity action *inter-alia* through various open market operations
- Three-month moratorium on payment of instalments of all kinds of term loans including credit card dues
- Interest on working capital facilities to be deferred by three months
- Instalment/ interest deferment shall not be considered for purposes of Bank's asset performance classification
- Combined liquidity worth is ~₹ 3740b/ ~\$55b (equivalent to 3.2% of India's GDP) injected within the system
- The time period for realization and repatriation of export proceeds for exports (of goods and software) made up to or on July 31, 2020, has been extended to 15 months from the date of export
- Banks don't need to activate countercyclical capital buffers for one more year implying that the banks can utilise the capital earmarked for the buffer for routine business operations, this is a further no cost step towards enhancing liquidity within banking channels
- Ways and Means Advances (WMA) limit for State governments (a temporary liquidity arrangement with the central bank) enhanced by 30 per cent till September 30<sup>th</sup>, 2020 to improve fund flow and liquidity
- **Credit Ratings**
  - Circulars issued to direct credit rating agencies to consider impact of lockdown on cases of default in the intervening period
  - Relaxation from timelines for rating action/ issue of press release by agencies stipulated vide SEBI circular dated June 30, 2017 has been granted
  - Further, an extension of 30 days has been granted for making annual and semi-annual disclosures by agencies on its website for the period ended March 2020.

#### 6.4. Insolvency Proceedings Measures

- ***Threshold for triggering insolvency proceedings***

Due to the emerging financial distress faced by most companies on account of the large-scale economic distress caused by COVID 19, it has been decided to raise the threshold of default to ₹10m/ ~\$150k (from the existing threshold of ₹100k/ ~\$1,500). The raise in the threshold would largely prevent triggering of insolvency proceedings for smaller defaults.

- ***Moratorium for insolvency proceedings***

A moratorium for insolvency filings is also under consideration owing to force majeure causes of default.

#### 6.5. Measures for Compliances by Companies

- Additional fee moratorium period up to September 30<sup>th</sup>, 2020 for any filing with the MCA-21 Registry, irrespective of its due date. This would reduce the compliance as well as financial burden
- The mandatory requirement of holding meetings of the Board of the companies within prescribed interval shall be extended by a period of 60 days till next two quarters i.e., till September 30<sup>th</sup>, 2020
- Applicability of Companies (Auditor's Report) Order, 2020 shall be made applicable from the financial year 2020-2021 instead of from 2019-2020 notified earlier
- Departure, from the requirement for Independent Directors of companies hold at least one meeting without the attendance of Non-independent directors and members of management, would not be viewed as violation for the year 2019-20
- Period for certain compliances extended to June 30<sup>th</sup>, 2020
  - Requirement to create a Deposit reserve of 20% of deposits maturing during the financial year 2020-21
  - Requirement to invest 15% of debentures maturing during the financial year 2020-21
- Settlement/ Amnesty scheme for Companies and LLPs to make good their pending defaults qua filing documents for past period
- Contribution to PM Cares fund to be recognized as CSR spend by Companies

#### 6.6. Social Measures

- Finance Minister announced Mega Economic Relief Package on March 26, 2020, intended to benefit health care workers, farmers, migrant workers and poor/ daily wage labourers. Aggregate amount committed by Government under this package is ~₹1700b (~\$25b). Various initiatives announced are as follows:
  - All health workers including doctors, paramedics, health workers, cleaners, etc to be provided personal medical insurance cover of ₹ 5m/ ~\$75k per person
  - Direct Bank Transfers and food security for lower income group/ daily wagers/ poor section society/ senior citizens amongst others
  - Doubling the limits for collateral free loans to identified category of small businesses as well as social security contributions for employees of micro and small businesses (meeting prescribed criteria) to be made directly by the government; etc
- Insurers instructed to assume risks in case of third party auto insurance as well as health insurance policies despite a delay in renewal, by the insured, in case the due date falls during the lockdown period

### 6.7. Promoting Bulk Drug Parks

- Financial aid to various states setting up these parks
- Parks to have common facilities such as solvent recovery plant, distillation plant, power & steam units, common effluent treatment plants
- Those desirous of setting up units would be exempted from obtaining environment clearances
- Production linked financial incentives to manufacturing of 53 identified drugs
- A total financial commitment of \$1.5b by Government of India in this regard

#### **Useful links:**

- Indian Ministry of Finance's website : click [here](#)
- Reserve Bank of India's website: click [here](#)

*For further information please contact your Taxand team in India at [elplaw.in](mailto:elplaw.in). Also, refer to our detailed write-ups concerning business continuity in these unprecedented times – click [here](#)*

## 7. INDONESIA (UPDATED 02.04.20)

On March 13, 2020, the Coordinating Ministry of the Economic Sector of the Republic of Indonesia held a press conference to announce the second economic stimulus to be provided in handling the impacts of COVID-19. Such economic stimuli were ratified on March 21, 2020 through Minister of Finance Regulation No. 23/2020 (**Tax Incentives for Taxpayers Affected by the Coronavirus, PMK-23/PMK.03/2020**).

### 7.1. Fiscal measures

- **Tax Incentives for Taxpayers Affected by the Coronavirus (PMK-23/PMK.03/2020)**

Relaxation on Article 21 Income Tax (withholding tax on salary) for a duration of 6 months, for employees of the processing industry

The Processing Industries mentioned in this regulation (for 440 business field classifications) will be provided relaxation on Article 21 Income Tax, effectively allowing liquidity and greater income for the employees in the production industry. The Article 21 Income Tax covered by the Government will be provided to Employees who are Tax ID holders and have an annual fixed gross income of <IDR 200 million; starting from April 2020 up until September 2020.

For the processing industries listed in the 102 business field classifications, the following incentives are available:

- **Relaxation on Article 22 Income Tax on Imports for a duration of 6 months**

The relaxation on Article 22 Income Tax on Imports for specific sectors (102 business field classifications), Import for Export taxpayers ("KITE") and Import for Export SME taxpayers ("KITE IKM") is aimed to allow continuous cash flow for industries.

The Article 22 Income Tax Incentives on imports will be exempted by request process, which will take 3 working days and will remain valid until September 30, 2020.

- **Reduction on Article 25 Income Tax of 30% for a duration of 6 months**

In hopes of maintaining economic stability and increase in exports, the 30% reduction on Article 25 Income Tax (monthly tax installments) will be provided to promote export.

The 30% Article 25 Income Tax reduction is applicable through the submission of a statement letter to the Tax Office in which the Taxpayer is registered. This reduction will be valid from the notified Tax Period for reduction until September 2020.

- **Acceleration on the VAT Refund for a duration of 6 months**

Preliminary refund incentives for VAT restitution are for Low-risk Taxable Entrepreneurs with total tax overpayment  $\leq$  IDR 5 billion. This incentive will be valid from April 2020 to September 2020.

On March 21, 2020, Director General of Taxes of the Republic of Indonesia ratified the following decrees regarding Annual Individual Tax Returns.

- **Taxation Policies in Connection with the Spread of the Coronavirus Disease 2019 (COVID-19) (KEP-156/PJ/2020)**

In light of recent developments in the spread of the Coronavirus, the Indonesian government has declared the period of March 14, 2020 up until April 30, 2020 as a period of force majeure. The Directorate General of Taxes has announced that certain administrative sanctions for the said time period will be written off. The administrative sanctions concerned refer to the delayed submission of Individual Annual Income Tax Returns for 2019; and the delayed payment of tax underpaid in

Individual Annual Income Tax Returns for 2019. As such, an extension will be granted until April 30, 2020.

For Individuals participating in Tax Amnesty Program previously, the deadline for the annual report submission is also prolonged to April 30, 2020.

**(UPDATE)** As of March 31, 2020, several adjustments and taxation facilities have been made available in response to developments in the spread of COVID-19 in Indonesia as well as the maintenance of financial stability and in defense against possible national economic threat.

- **Adjustment of Corporate Income Tax for Local and Permanent Establishment Taxpayers have been adjusted to 22% (for the Tax Year 2020-2021) and 20% (starting from the Tax Year of 2022).** In the case of public listed companies, income tax will be adjusted to 3% lower than the regular rate to 19% for the Tax Year of 2020-2021, and 17% starting from 2022 ; given that the company meets the conditions of a minimum of 40% shares in the IDX, ownership of such shares by at least 300 parties, and such conditions must be met within 183 calendar days in one Tax Year.
- **Treatment of taxation in Trade activities via Electronic Systems (*Perdagangan Melalui Sistem Elektronik/ PMSE*).** VAT will be imposed on the use of Intangible Taxable Goods and/or Services from outside the customs area into Indonesia conducted by PMSE entrepreneurs appointed by the Ministry of Finance.

Income Tax will be imposed on foreign traders, foreign service providers, and foreign PMSE entrepreneurs that are in the form of permanent establishments (PEs) in Indonesia and hold significant economic presence. If due to a Double Taxation Agreement, they are not categorized as PEs, but are foreign traders, service providers and PMSE entrepreneurs, then they will be subject to Digital Tax. A government regulation will be issued on the details.

- **Extension period for execution of rights and fulfillment of taxation obligations which are due within the declared duration of force majeure conditions of the COVID-19 pandemic.** Such period of force majeure is due to the declarations made and announced by the Government through the National Board for Disaster Management (BNPB) starting 28 January 2020 up to 29 May 2020 (BNBP Decision Letter No. 9.A Year 2020 dated 28 January 2020 and No. 13.A Year 2020 dated 29 February 2020).
  - *Submission for objections (as per Article 25 (3) of the UU KUP) due have been extended for a maximum of 6 (six) months;*
  - *tax overpayment refunds (as per Art 11 (2) of UU KUP) will be extended for a maximum of 1 (one) month;*
  - *tax overpayment refunds (as per Art 17B (1) of UU KUP), objection submissions (as per Art 26 (1) of the UU KUP), requests for the deduction or write-off of administrative sanctions or incorrect tax assessment or audit results will be extended for a maximum of 6 (six) months.*
- **Grant of authority to the Minister of Finance to provide customs facilities such as exemption or ease on import tax.** In the interest of recovering and strengthening the national economy, amendments to the import goods exempted from import tax based on use, as well as import goods that may be exempted and given ease, in reference to Article 25 (1) of the Customs Law No. 17 of 2006 have been stipulated in the new MoF facility.

## 7.2. Financial measures

- **National Economic Stimulus in the form of a Countercyclical Policy in response to the spread of COVID-19**
  - To encourage the optimization of intermediary functions of banks; manage the stability of financial systems; and to support economic development, **primarily in the Micro, Small and Medium**

**Enterprise (UMKM) sector.** The OJK will apply the stimulus policy that consists of the assessment of credit/financing/other funding qualities.

- Refocusing of activities and reallocation of Ministry/Institute budgets; reallocation and refocusing of funding to the field of health and providing support funds for health operations; distribution and use of revenue sharing funds, general allocation Funds, and regional incentive funds for FY 2020 in the countermeasures and/or handling Coronavirus Disease 2019 (COVID-19)
- **(UPDATE)** The government has rolled out the **National Economy Recovery Program** to maintain and strengthen economic capabilities for businesses in the real and financial sectors. As such, costs incurred in the enactment of the National Economy Recovery Program **will not be considered as state expenditure.**

### 7.3. Social measures

- Acceleration of social assistance for poverty-stricken communities (Keluarga Harapan) Program, Grocery Card (Kartu Sembako), Non-Cash Food Aid (Bantuan Pangan Non-Tunai), People's Business Credit (Kredit Usaha Rakyat), and in education (Kartu Indonesia Pintar);
- Housing interest subsidy for 40% of poverty-stricken communities;
- Schools and universities have been advised to implement online classes and home-study, while private companies have been encouraged to apply the work-from-home scheme since March 16, 2020.
- Starting from March 23, 2020 until April 5, 2020, public places (ie. malls, cinemas, etc.) have announced that they will have shorter operation time or even closed for the specified duration.
- **(UPDATE)** Branches of the national government have been urged to identify planned projects that may be postponed, i.e. single year plans that may be amended as multi-year, and projects that may be extended.

#### **Useful links:**

- Directorate General of Taxes, Republik of Indonesia : <https://www.pajak.go.id>
- Ministry of Finance, Republik of Indonesia : <https://www.kemenkeu.go.id/covid19>

*For updated information please contact your Taxand team in Indonesia at <https://www.pbtaxand.com>*

## 8. IRELAND *(UPDATED 02.04.20)*

### 8.1. Tax measures

On March 13<sup>th</sup>, 2020, the Irish tax administration (Irish Revenue) outlined some key advice and actions taken to assist SME businesses experiencing **cashflow and trading difficulties** arising from the impacts of the coronavirus<sup>5</sup> leading to the following measures for SME businesses:

- the application of **interest on late payments** is suspended for the (i) January/February VAT period and (ii) February 2020 and March 2020 PAYE (Employers) periods, and
- all Irish Revenue **debt enforcement activity** is suspended until further notice.

According to Irish Revenue an SME is a business with turnover of less than € 3 million who is not dealt with by either Irish Revenue's Large Cases Division or Medium Enterprises Division.

Irish Revenue's advice for businesses, other than SMEs, who are experiencing temporary cash flow or trading difficulties is that they contact the Collector-General's office or engage directly with their branch contacts in Large Corporates Division or Medium Enterprises Division.

#### ***Tax Repayments/Refunds***

Irish Revenue has indicated that it will continue to prioritise the approval and processing of tax repayments and refunds (**primarily VAT repayments and PSWT refunds**) to taxpayers. Where verification checks are necessary, Irish Revenue will conduct these through their MyEnquiries service or by telephone.

#### ***Revenue Interventions***

Irish Revenue has **suspended** tax audit and other compliance intervention activity on taxpayers' premises until further notice. Where possible, Irish Revenue will engage with businesses to finalise open interventions through MyEnquiries or by telephone.

#### ***Filing Tax Returns***

Irish Revenue have reiterated that taxpayers (individuals and businesses) should **continue to file** their tax returns even if payment of the resulting liabilities, in whole or in part, is not possible. Where, due to Covid-19, key personnel that compute tax returns are unavailable, Irish Revenue advise that the relevant return is submitted on a "best estimate" basis. They have also indicated that the application of the corporation tax surcharge (for late filing of corporation tax returns) for accounting periods ending June 2019 onwards (i.e. due by 23 March 2020 onwards) is suspended until further notice.

#### ***Real Time Foreign Tax Credit for Restricted Stock Unit Cases***

The 31 March 2020 filing deadline has been suspended for cases where real time foreign tax credits were provided through the payroll. The 2019 income tax return for affected employees will revert to the standard income tax filing deadline (i.e. 31 October 2020 or 12 November 2020 for ROS filings, as appropriate) for that return. Irish Revenue advised that the employer notification to Irish Revenue in relation to such cases should be made as soon as possible, but no later than the applicable extended income tax filing date.

#### ***Share Schemes Filing Obligations***

The filing deadline for all 2019 share scheme returns is **extended** from 31 March 2020 to 30 June 2020.

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<sup>5</sup> Press releases by the Irish Tax administration on March 13<sup>th</sup>, 2020 "Revenue announce measures to assist SMEs experiencing cashflow difficulties arising from COVID-19".

### ***Special Assignee Relief Program (SARP)***

The 90-day employer filing obligation is **extended** for a further 60 days. Irish Revenue believes that this extension should provide sufficient time for employers to file the required return.

### ***Trans-Border Worker Relief***

If employees are required to work from home in Ireland, due to Covid-19, such days spent working at home in Ireland will not preclude an individual from being entitled to claim this relief, provided all other conditions of the relief are met.

### ***PAYE Dispensation Applications***

Due to the current restrictions on travel, Irish Revenue will not "strictly" enforce the 30-day notification requirement for PAYE dispensations applicable to short term business travellers from countries with which Ireland has a double taxation treaty who are going to spend in excess of 60 work days in Ireland in a tax year.

### ***Foreign Employment - Operation of PAYE***

Irish Revenue will not seek to enforce Irish payroll obligations for foreign employers in "genuine" cases where an employee was working abroad for a foreign entity prior to Covid-19 but relocates temporarily to Ireland during the Covid-19 period and performs duties for his or her foreign employer while in Ireland.

### ***PAYE Exclusion Order – Irish Contract of Employment***

The tax position of employees working abroad for a foreign employer under an Irish contract of employment, where a PAYE exclusion order is in place, will not be adversely impacted if the employee works for more than 30 days in Ireland due to Covid-19.

### ***Residence Rules – Force Majeure Circumstances***

Whether an individual is considered tax resident in Ireland in a particular tax year depends on the number of days (or part of a day) spent in Ireland in that tax year (or preceding tax year).

Irish Revenue's existing position is that in circumstances where an individual is prevented from leaving Ireland on their intended day of departure due to "extraordinary natural occurrences" or an exceptional third party failure or action, none of which could reasonably have been foreseen and avoided, the individual will not be regarded as being present in Ireland for tax residence purposes for the day after the intended day of departure, provided the individual is unavoidably present in Ireland on that day due only to force majeure circumstances.

Irish Revenue has clarified that where a departure from Ireland is prevented due to Covid-19, Irish Revenue will consider this force majeure for the purposes of establishing an individual's tax residence position.

### ***E-Working and Tax***

Irish Revenue has updated its "e-Working and Tax" manual. Details can be accessed at [E-Working and Tax](#)

### ***Corporation Tax and Presence in Ireland or Outside Ireland Resulting from Covid Related Travel Restrictions***

Where an individual is present in Ireland (or in another jurisdiction and would otherwise have been present in Ireland) and that presence is shown to result from travel restrictions related to Covid-19, Irish Revenue will be prepared to disregard such presence in Ireland, for corporation tax purposes, for the company where the individual is an employee, director, service provider or agent. Irish Revenue stresses that the individual and the company should maintain a record

of the facts and circumstances of the "bona fide" relevant presence in Ireland, or outside Ireland, for production to Irish Revenue if evidence of such presence is requested.

#### ***Relief from Excise Duty for the Manufacture of Hand Sanitiser Products***

Alcohol products tax will not apply to alcohol used in the production of a range of medicinal and other products such as hand sanitisers.

#### ***Deferral of stamp duty on credit cards***

The Minister for Finance announced on March 18<sup>th</sup>, 2020 that he was deferring the annual collection of stamp duty on credit cards (ie € 30 per credit card account) from April 1<sup>st</sup> 2020 to July 2020 1<sup>st</sup>. The collection date will be changed automatically by financial institutions.

#### ***Deferral of payment of Local Property Tax***

Irish Revenue announced on March 16<sup>th</sup>, 2020 that for property owners who opted to pay their LPT for 2020 by annual debit instruction or single debit authority payment the payment date will automatically change from March 21<sup>st</sup>, 2020 to May 21<sup>st</sup>, 2020.

## **8.2. Social measures**

### ***Temporary COVID-19 Wage Subsidy Scheme***

The Irish government announced new measures on 24 March 2020 to provide financial support to Irish workers affected by the Covid-19 crisis. The scheme applies to all employers from all sectors (other than the public service and non-commercial semi-state sector) whose business activities are being adversely impacted by the Covid-19 pandemic. In addition employers must retain their employees on the payroll and must be able to demonstrate a minimum of a 25% decline in expected turnover / customer orders for quarter 2, 2020 (when compared with prior comparable periods) and be unable to pay normal wages and normal outgoings fully. Application for the scheme is based on self-assessment principles and a qualifying employer must declare that it is significantly negatively impacted by the COVID-19 crisis. Revenue recommend that employers retain their evidence/basis for entering the wage subsidy scheme as verification checks may be carried out by Revenue in the future. Revenue indicated in their recently published guidelines that an employer that has been hit by a significant decline in business but has strong cash reserves, that are not required to fund debt, will still qualify for the wage subsidy scheme but the Government would expect the employer to continue to pay a significant proportion of the employees' wages.

The scheme enables employees, whose employers are affected by the pandemic, to receive significant supports directly from their employer and will run for 12 weeks from 26 March 2020.

Some key features of the scheme include:

- it applies to employees who were on the employer's payroll as at 29 February 2020 and for whom a payroll submission has already been made to Revenue in the period from 1 February 2020 to 15 March 2020
- employers will be refunded up to a maximum of EUR410 per week per each qualifying employee (for employees earning less than or equal to EUR586 per week net) via the payroll process
- employers will be refunded up to a maximum of EUR350 per week per each qualifying employee (for employees earning over EUR586 per week net and less than or equal to EUR960 per week net) via the payroll process

- in April 2020 the scheme will move to a subsidy payment based on 70% of the weekly average take home pay for each employee up to a maximum of EUR410
- income tax and USC will not be applied to the subsidy payment through the payroll
- employee PRSI will not apply to the subsidy or any top up payment by the employer
- employers PRSI will not apply to the subsidy and employers PRSI will be reduced from 10.5% to 0.5% on any top-up payment

From 26 March 2020 employers or their tax agents can apply to operate the scheme via Revenue's Online Service (ROS). Further details of the scheme can be found on <https://revenue.ie/en/corporate/communications/covid19/temporary-covid-19-wage-subsidy-scheme.aspx>

### 8.3. Financial measures

- **€ 200 million SBCI COVID-19 Working Capital Scheme**

- The Strategic Banking Corporation of Ireland (SBCI) is working with the Department of Business, Enterprise and Innovation and Department of Agriculture, Food and the Marine to bring this scheme to market as soon as possible.
- Maximum loan size will be € 1.5 million (first € 500,000 unsecured) and the maximum interest rate will be 4%.

Loans will be for periods up to 3 years in duration.

- **€ 200 million Package for Enterprise Supports including a Rescue and Restructuring Scheme**

The scheme will be open for viable but vulnerable firms that need to restructure or transform their businesses.

Details of these supports are being finalized.

- **Microenterprises COVID-19 loans**

Microenterprises can access Covid-19 loans of up to € 50,000 from MicroFinance Ireland.

Loans are available at an interest rate of between 6.8% and 7.8%.

#### Useful links:

- Irish Government's website: click [here](#).
- Irish tax and customs' website: click [here](#).
- Irish Department of Business, Enterprise and Innovation's website: click [here](#).

For updated information please contact your Taxand team in Ireland at [www.williamfry.com](http://www.williamfry.com)

## 9. ITALY (UPDATED 26.03.20)

### 9.1. Tax measures

Four decrees (Decree of Minister of Economy and Finance dated February 24<sup>th</sup>, law decree n° 9/2020, law decree n° 11/2020 and law decree n°18/2020) enacted emergency measures. Decree of Minister of Economy and Finance dated February 24<sup>th</sup> enacted measures that only apply to affected territories on the date it was published.

- **Rules resulting from law decrees n° 9/2020 and n°18/2020**

- **suspension**, without limitation of turnover, for the sectors most concerned<sup>6</sup>, of payments of withholding tax, social security and compulsory insurance contributions for the months of March and April 2020 and of the payment of VAT for the month of March 2020;
- **suspension of the payment of VAT**, withholding taxes and contributions for March for taxpayers whose turnover does not exceed € 2 million in 2019;
- for economic operators to whom the suspension does not apply, the **deadline for payments due to public administrations**, including those relating to social security and compulsory insurance contributions, **is extended from March 16<sup>th</sup>, 2020 to March 20<sup>th</sup>, 2020**;
- suspension, with some exceptions, of the tax obligations which expire between March 8<sup>th</sup>, 2020 and May 31<sup>st</sup>, 2020; the suspended tax obligations must be fulfilled by June 30<sup>th</sup>, 2020;
- **suspension** until May 31<sup>st</sup>, 2020 of the **deadlines** for clearance, control, verification, recovery and litigation activities by the tax administration;
- shops and boutiques (cadastral category C/1) benefit from a **tax credit equal to 60%** of their rent for the month of March 2020; the activities listed in Annexes 1 and 2 of the 11 March 2020 Presidential Decree are excluded;
- introduction of a **tax credit to the extent of 50%** for workplace and working tools sanitation costs up to a maximum amount of € 20,000;
- amendment of the **tax credit for advertising investments**;
- companies which transfer for consideration, by December 31<sup>st</sup>, 2020, receivables, both commercial and financial, due from defaulting debtors, may **convert into a tax credit the deferred tax assets (“DTA”)** relating both to tax losses not yet used at the date of the transfer and to the surplus of Allowance for Corporate Equity (“ACE”) not yet deducted. The amount of DTAs that can be converted into tax credits is equal to 20% of the face value of the transferred receivables.
- introduction of **tax incentives for cash and in-kind donations** aimed at dealing with the epidemiological emergency, made in 2020;
- **facilitation** for self-employed and smaller subjects with revenues or compensation not exceeding € 400,000;
- the **changes to the tax calendar** introduced by Decree-Law n° 124 were brought forward to January 1<sup>st</sup>, 2020 instead of January 1<sup>st</sup>, 2021;
- the deadline for providing the Italian tax authorities with the **form** for each employee indicating remuneration and withholding tax (*certificazione unica*) is extended until **March 31<sup>st</sup>, 2020**;

the deadline for third parties (e.g. banks, insurance companies, social security institutions and universities) to provide the Italian tax authorities with the data to be included in taxpayers' pre-filled tax returns is extended until **March 31<sup>st</sup>, 2020**;

<sup>6</sup> These include sectors such as tourist hotels, spas, passenger transport, catering, bars, culture, sport, education, amusement parks, events, games rooms and sports betting centers.

- pre-filled tax returns:
  - will be made available to taxpayers on the website of the Italian tax administration on **May 5<sup>th</sup>, 2020**;
  - must be filed with the Italian tax authorities before **September 30<sup>th</sup>, 2020**.
- **hearings regarding tax proceedings** pending from March 9<sup>th</sup>, to April 15<sup>th</sup>, are postponed to April 15<sup>th</sup>, 2020;
- deadlines to complete any steps concerning pending tax proceedings **are suspended until April 15<sup>th</sup>, 2020**;
- moratorium on the due dates for payments to the collection agencies **until June 30<sup>th</sup>, 2020**;
- extension of tax authorities' activity until the 31<sup>st</sup> of December of the second year following the end of the suspension period;
- call ordinary shareholders' meetings within a longer period (180 days) and electronic or correspondence voting.

## 9.2. Social measures (*law decree n° 18/2020*)

- The **redundancy fund** shall, by way of derogation, be extended to the entire national territory, to all employees in all sectors of production;
 

Employers, including companies with less than 5 employees, who suspend or reduce their activity because of the epidemiological emergency, may use the redundancy fund by derogation to the new cause "COVID-19" for a maximum period of 9 weeks;
- the number of days of **paid monthly leave** covered by the notional contribution for healthcare workers is increased by 12 additional days, useable in the months of March and April 2020;
- **prohibition of dismissals** for the next two months and suspension of pending procedures;
- **extension workers' allowance**;
- **extension of technical unemployment** to all workers;
- introduction of specific measures regarding **parental leave** and of an "**abstention right**" for some categories of working parents;
- **bonus baby sitting** up to a maximum amount of € 600;
- creation of a **€ 600 allowance** for the month of March 2020 for self-employed workers and creation of a **€ 100 premium** for workers earning less than € 40,000 per year, based on March 2020 worked days at the ordinary place of work;
- equalization of quarantine to illness;
- introduction of specific measures regarding **health and safety at workplace**.

## 9.3. Financial measures (*law decree n° 18/2020*)

- **moratorium** on home loans to cover liquidity needs;
- **moratorium** on lending to micro, small and medium-sized enterprises (covering mortgages, leasing, credit facilities and short-term loans) **until September 30<sup>th</sup>, 2020**;
- strengthening of the **central guarantee fund** for small and medium-sized enterprises, including the renegotiation of existing loans **until December 17<sup>th</sup>, 2020**;

- strengthening of the **Confidi**<sup>7</sup> for micro-enterprises, through simplification measures;
- introduction of a **counter-guarantee** mechanism for banks, by *Cassa Depositi e Prestiti* (Italian public body), making it possible to extend credit also to medium and large enterprises affected by the crisis.

**Useful links:**

- Italian Ministry of Economy and Finance's website : **[click here](#)**.

For updated information please contact your Taxand team in Italy at <http://www.led-taxand.it/>

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<sup>7</sup> *Confidi, which means "consorzio di garanzia collettiva dei fidi", is an Italian consortium that provides guarantees to facilitate companies' access to short-, medium- and long-term financing for economic and productive activities.*

## 10. LUXEMBOURG (UPDATED 02.04.20)

### 10.1. Tax measures

The Luxembourg tax authorities have announced yesterday a series of measures intended to guarantee the continuity of the Luxembourg economy:

- Luxembourg individual and corporate taxpayers who have business income, income from agriculture and forestry or income from independent professional services may request:
  - **a cancellation of the quarterly advances of (corporate) income tax and municipal business tax in relation to the 1<sup>st</sup> and 2<sup>nd</sup> quarters of 2020.** However, it is not possible to cancel the net wealth tax advances. The form to be used for the request is available [here](#).
  - **an extension of 4 months of the deadline for the payment of (corporate) income tax, municipal business tax and net wealth tax.** This extension is only possible for taxes with a due date as from **March 1<sup>st</sup>, 2020**, meaning that an extension is not possible if the due date was February 29<sup>th</sup>, 2020 or earlier. The form to be used for the request is available [here](#).

It is important to note that even though the request for cancellation and/or extension has to be (briefly) justified, the cancellation/extension will be accepted automatically by the Luxembourg tax authorities, which means that the tax authorities will not assess how significant the liquidity issues of the taxpayer are.

As a last measure, the **deadline for filing the tax returns** has been extended to **June 30<sup>th</sup>, 2020**. This applies to both individual and corporate taxpayers.

- No penalty will be imposed in case of late filing for subscription tax returns ("taxe abonnement") due for the 1st quarter of 2020. In principle, the deadline expires on 20 April 2020. If this deadline is exceeded, the fines provided will not be applied if the delay is due to the exceptional circumstances of the COVID19 pandemic.
- The 2015 Mutual Agreement to the double tax treaty between Luxembourg and Belgium provides that a treaty employee is generally taxed in the state of employment provided that this employee does not work more than 24 days in the state of residence or a third country.

Belgium and Luxembourg agreed on 17 March that as from 14 March 2020 and until further notice, any days spent by a treaty employee working from his/her state of residence shall not be taken into account when computing the 24-day rule,

- Both France and Luxembourg agreed on 19 March 2020 that as from 14 March 2020 and until further notice that any days spent by a treaty employee working from his/her state of residence shall not be taken into account when computing the 29-day rule laid out in the double tax treaty concluded between France and Luxembourg in 2018.
- Germany and Luxembourg found an agreement, that still need to be officialized, according to which the working days during which German cross-border workers work from their home due to the pandemic are considered to be working days in Luxembourg and shall not be taken into account when computing the 19-day rule laid out in the agreement dated 26 May 2011 between Luxembourg and Germany. The period during which this tolerance will be applied is still unknown as at today.
- Until further notice, no administrative fine will be levied in case of late filing of VAT returns;
- As from 16 March 2020, VAT credits will be refunded to Luxembourg businesses whose VAT receivable balances do not exceed EUR 10,000

### 10.2. Social measures

- Simplification of the conditions for introducing partial unemployment or short time work.
- No late payment interest and penalties will be levied for late payment of social security contributions. This measure is applicable as from 1 April 2020.

- There will be no collection or seizure measures taken for late payment of social security contributions

### 10.3. Financial measures

- ***Aid for SMEs that find themselves in temporary financial difficulty***

Aid scheme for SMEs that find themselves in temporary financial difficulty.

The eligible companies can benefit from an **advance** limited to the actual loss of income in the form of a recoverable advance from the State.

The granting of the aid is subject to a **threefold condition**, namely:

- that an event was recognized as having a **harmful impact** on the economic activity of certain firms;
  - that the firm was experiencing **temporary financial difficulties**; and
  - that there was a **causal link** between those difficulties and the event in question.
- ***Bank guarantee for companies during cash-flow difficulties***

Setup of a specific surety in the form of a **guarantee** to companies that need a line of credit or a bank loan.

This guarantee will be up to **50% of the credit** and covers a maximum amount of € 250,000 per guarantee.

Companies wanting to take advantage of this guarantee must apply directly to their bank, which will decide whether to release the credit.

#### **Useful links**

- Luxembourg Ministry of Economy's website: click [here](#).
- Luxembourg Ministry of Employment's website: click [here](#).

*For updated information please contact your Taxand team in Luxembourg at <https://www.atoz.lu/>*

## 11. MALAYSIA (UPDATED 19.03.20)

### 11.1. Tax measures

- **Key direct tax measures**

- **Deferment** of monthly income tax instalment payments for businesses in the tourism sector for a period of 6 months from April 2020 to September 2020.
- Other businesses affected by COVID-19 are allowed to **revise their tax estimates** in the 3<sup>rd</sup> month of installment payment for the year of assessment 2020 [in addition to the 6<sup>th</sup> and/ or 9<sup>th</sup> month revisions] **without penalty**.
- **Special tax deduction** of up to RM 300,000 (€ 63,500) on costs for renovating and refurbishing business premises incurred from March 1<sup>st</sup>, 2020 to December 31<sup>st</sup>, 2020.
- Expenses incurred by employers to provide employees with face masks and personal protective equipment eligible for tax deduction and capital allowances respectively.
- **Accelerated capital allowance** to be claimed over a period for 2 years on qualifying expenditure for the purchase of machinery and equipment (including ICT equipment) incurred from March 1<sup>st</sup>, 2020 to December 31<sup>st</sup>, 2020.
- The deadline for filing of income tax return forms, which falls between March 2020 and June 2020, have been given an extension of two-months. The extension also applies to the payment of balance of tax payable.

- **Key indirect tax measures**

- Service tax exemption on accommodation provided by hotels from March 1<sup>st</sup> to August 2020.
- **Import duty and sales tax exemption** for port operators from April 1<sup>st</sup>, 2020 to March 31<sup>st</sup>, 2023 on imported or locally bought equipment and machinery.
- The deadline for the submission of sales tax and service tax return forms falling on March 31<sup>st</sup>, 2020 has been extended to April 15<sup>th</sup>, 2020. The extension also applies to the payment of sales and service taxes due on March 31<sup>st</sup>, 2020.

### 11.2. Social measures

- Reduction of **minimum Employees Provident Fund** contribution by employees from 11% to 7% from April 1<sup>st</sup>, 2020 to December 31<sup>st</sup>, 2020. Employees can elect to maintain the contribution at 11%.

### 11.3. Financial measures

- Banks to postpone payments and to reschedule loans.

### 11.4. Other economic measures

- 15% discount on monthly electricity bills for hotels operators, travel agencies, local airlines, shopping malls, conventions and exhibition centers for the period from April 1<sup>st</sup>, 2020 to September 30<sup>th</sup>, 2020.

#### Useful links:

- Prime Minister's office's website: click [here](#).

For updated information please contact your Taxand team in Malaysia at <https://www.axcelasia.com/>

## **12. MEXICO (UPDATED 01.04.20)**

### **12.1. Measures issued by the Ministry of Health**

On February 28, 2020, the Mexican Ministry of Health officially confirmed the first case of COVID – 19 in Mexico. Since such date, the number of confirmed cases has increased to a total of 585 as of March 26, 2020. Consequently, in an attempt to reduce the spread of COVID-19, the Mexican Ministry of Health, along with the Mexican Ministry of Labor have issued several legal provisions in order to prevent COVID-19 in the work centers, most of which are relevant for the employment relationships in Mexico.

In this regard, the most significant provisions were issued on March 24, 2020, when the Mexican Ministry of Health enacted a decree by means of which preventive measures were imposed to employers and employees in order to control the health risks originating from COVID-19. Below please find a brief summary of such provisions:

- The following employees are required to remain in their homes and avoid coming into their work centers: adults over 65 years of age or older and groups at risk of developing severe diseases and/or dying from such diseases, including pregnant or breastfeeding mothers, people with disabilities, people with chronic non-transmittable diseases (i.e., people with high blood pressure, lung deficiency, kidney failure, lupus, cancer, diabetes, obesity, liver or metabolic failure, heart disease), or anyone with a disease or pharmacological treatment that causes a suppression of the immune system.

In the event that these employees, due to the nature of their positions and services, can provide their services remotely without the need to be physically present in their work centers, they must continue to provide their services on a regular basis, meaning this measure does not exempt them from providing their services.

- Public, social and private activities that involve physical gatherings, displacements or movement of individuals must be temporarily suspended. The interpretation in strict sense of such provision would be that individuals who are required to travel back and forth to their work centers to provide their services should not do so, and consequently their activities should be temporarily suspended; however, this would not be applicable for cases in which employees are able to continue rendering their services remotely.

- All the companies or establishments that are required to face the health contingency must continue to provide their services. This includes, among others: hospitals, clinics, pharmacies, laboratories, medical services, financial services, telecommunication services, information media services, hotel and restaurant services, gas station services, markets, supermarkets, transportation services and gas distribution companies, as long as they do not require closed spaces with crowds.

### **12.2. Measures issued by the Securities and Banking Commission**

In light of the SARS-CoV2 (COVID-19) international outbreak, and in order mitigate the economic effects derived from it the National Banking and Securities Commission (the "CNBV") issued on March 25, 2020 a decree that would allow for the issuance of special accounting criteria applicable to Mexican banking institutions, on a temporary basis, with respect to consumer, housing and commercial loans -such as mortgage-secured loans, revolving and non-revolving loans aimed to individuals such as car loans, personal loans, payroll loans, credit card and microcredit; as well as commercial loans aimed at legal entities or individuals with business activity in its different forms, including agriculture and livestock-, in order for such institutions to be able to grant relief for clients whose source of revenue is affected by the measures adopted by the authorities to control the COVID-19 outbreak. The measures consist on deferring, either partially or in whole, the principal and/or interest payments of loans that were effective and in force as of February 28, 2020, for up to 4 months, with the possibility of extending it to an additional 2 months, with respect to the total outstanding amount payable, including ancillary payments, in the understanding that the balances may be frozen without causing interest.

In addition, the CNBV issued a decree on March 26, 2020 issued suspending the terms for audiences and proceedings that are carried out before the CNBV and providing for online alternatives to comply with reporting obligations that require to be physically filed before the CNBV, in order to temporarily provide regulatory relief to securities issuers. The decree also authorizes the Chairman of the CNBV to identify critical processes that would not be suspended in order to assure the stability and due operation of the financial entities and to determine authorizations that may be granted in an expedite or conditional manner. The decree will be in force as of March 23, 2020 and until April 19, 2020.

### **12.3. Measures issued by the Federal Judicial Branch**

The Federal Judicial Branch was one of the first public entities to take measures in connection with the COVID-19 outbreak. By a General Decree (Acuerdo General 4/2020) dated March 17, 2020 and published in the Federal Official Gazette on March 20, 2020, the Federal Judiciary Council adjourned the jurisdictional activity of federal courts and suspended procedural terms from March 18 to April 19, 2020. During this period only urgent matters (related primarily with criminal law procedures) will be addressed by some specific courts that remain on duty for such purpose. The Local Judicial Branches of the different states adopted similar measures and almost all of them will resume jurisdictional activity until April 20, 2020 (including courts of Mexico City).

### **12.4. Measures adopted by other administrative authorities**

Several Mexican authorities announce the suspension of activities and terms to cope with the contingencies derived from the increasing propagation of the COVID-19 in Mexico.

- **Federal Antitrust Commission (COFECE) and Federal Telecommunications Institute (IFT)**

In light of the current COVID-19 international crisis, and for the purpose of reducing the risk of spreading the virus, both COFECE and IFT have decided that, from March 23 to April 17, 2020, the running all time periods in proceedings being processed by these authorities will be suspended.

However, for the purpose of containing the economic impact of these measures on the country's economy and the sectors they regulate, both bodies have excluded the following proceedings from the suspension, and these may be processed electronically.

- **Ministry of Environment and Natural Resources (SEMARNAT)**

On March 24, 2020, a Decree was published in Mexico's Federal Official Gazette in order to determine the period considered as non-business days regarding administrative acts and procedures managed by the SEMARNAT and its administrative agencies (the "Decree").

The Decree was issued as a result of the current health emergency, in relation to the administrative acts and procedures carried out by the SEMARNAT. Consequently, the non-business days start from the 23 to the 27, 30 and 31 of March, as well as, from April 1 to 3, 6 to 10 and from 13 to 17, all of them for the year 2020, however, the suspension of business days does not imply the shutdown of SEMARNAT's offices.

- **Energy Regulatory Commission (CRE)**

On March 24, 2020, the Energy Regulatory Commission published the resolution number A/010/2020 in the Federal Official Gazette. By means of the CRE Resolution, CRE ordered the suspension of the terms and deadlines of the acts and procedures carried out before CRE, as of the date of the publication of the CRE Resolution and until April 17, 2020, as a measure to prevent and combat the spread of the Coronavirus Covid-19.

Additionally, the CRE Resolution sets forth that all requests and applications submitted to CRE within the term of the suspension will be deemed as filed on April 20, 2020.

### **12.5. Legal Implications: Fulfillment of Contractual Obligations in Mexico**

The recent global public health crisis resulting from the Coronavirus outbreak (COVID-19) has consequences in many areas of the current reality; the legal field is no exception.

The declaration by the World Health Organization of a pandemic and the measures adopted in Mexico, both by governmental authorities and the private sector, have raised various questions regarding potential exceptions to the fulfilment of contractual obligations and the corresponding enforceability of rights.

In that context, the concepts of “Act of God”, “Force Majeure”, “Material Adverse Effect” and other similar concepts become particularly relevant to the analysis of the rights and obligations of the parties to any contract. Therefore, in order to determine the specific consequences that COVID-19 will have in relation to the fulfilment of contractual obligations, it is necessary to carry out a case-by-case study of the contracts and the applicable law, also considering the specific impact of the governmental provisions that have been adopted and could be subsequently issued in this respect.

### **12.6. Tax related Measures adopted by the local authorities of Mexico City**

On March 20, 2020 the “Agreement by which inherent terms and deadlines of administrative procedures are suspended and administrative benefits regarding tax obligations are granted, to prevent the spread of COVID 19” (the “Agreement”) was published on Mexico City’s Official Gazette.

Said agreement establishes that terms and deadlines for the practice of acts and diligences in connection with administrative procedures developed before local authorities are suspended from March 23 to April 19 of the current year. In this sense, several procedures were also suspended, such as the request and reception of documents, verification visits and customer service at their offices. Said suspension is not applicable to procedures regarding urban development, construction and the real-estate sector.

Additionally, deadlines in connection with the filing of tax returns and their corresponding payments established in Mexico City’s Fiscal Code will be extended. Taxpayers will be able to file said returns and make the corresponding payments until April 30,2020.

Finally, the deadline to obtain the subsidy for the Tax on the Ownership or Use of Automobiles was moved from March 31 to April 30, 2020.

### **12.7. Federal Tax related Measures**

The Federal Government has stated that the collection of taxes is an essential activity that will continue to be carried out with no plan to assist or provide incentives to taxpayers. On the contrary, the message being sent is that taxpayers have to help fund the necessary government revenue in order to be able to face the coming health crisis.

#### **Useful links:**

<http://www.macf.com.mx/en/covid-19/>

### 13. NETHERLANDS (UPDATED 02.04.20)

On March 17<sup>th</sup>, 2020, the Dutch Ministers and State Secretaries of **Economic Affairs and Climate and of Finance and the Minister of Social Affairs and Employment** announced an additional package of measures to reduce the economic consequences of the Covid-19 virus<sup>8</sup>.

#### 13.1. Tax measures

- **Postponement in payment of taxes, no fines and 0.01% interest**

Companies and freelancers who have received a provisional assessment issued by the Dutch Tax Authorities (“DTA”) can apply for a three-month postponement of payment of individual income tax, corporate income tax, VAT, wage tax, excise duties, gambling tax, insurance tax and environmental taxes. No postponement applies for the payment of Dutch dividend withholding tax. The DTA will immediately cease the collection of the aforementioned taxes and will not impose fines. Interest on overdue tax calculated during the term of the postponement, has also temporarily decreased from 8%/4% to 0.01%. To avoid directors’ tax liabilities, we recommend filing a notification of the inability to pay taxes.

- **Lowering of provisional tax assessments**

Lowering of FY20 provisional tax assessments if a lower profit or loss is expected. By adjusting the FY20 provisional tax assessment, a refund of tax paid on previous FY20 provisional tax assessments can be claimed to optimize the cash position.

#### 13.2. Social measures

- I. **Emergency measure wages** (“*Tijdelijke Noodmaatregel Overbrugging Werkgelegenheid - NOW*”):

Key requirements

- (Expected) loss in turnover of at least 20%;
- Employer continues to pay full wages, no redundancies;
- Application applies for three months.

Key benefits

- Up to 90% financial compensation wages. Pro rata calculation applies, for example:
  - Loss in turnover 100%; 90% financial compensation wages
  - Loss in turnover 50%; 45% financial compensation wages
- Compensation (capped at €9,538 per month per employee) + 30% employer cost
- Financial compensation is based on wage tax return, make sure return is filed with the tax authorities

- II. **Financial compensation self-employed individuals** up to € 1,500

- III. **Financial compensation enterprises**, one-time gift of € 4,000

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<sup>8</sup> Press release of the Ministry of Economic Affairs and Climate dated March 17<sup>th</sup>, 2020, « Emergency measures employment and economy », CE-AEP / 20077147..

### 13.3. Financial measures

- I. **Guarantee bank loans (A) (“BMKB”)** to increase bank debt capacity and optimize financing conditions

#### Key requirements

- For small and mid-size enterprises (max 250 employees, €50 million turnover or €43 million balance sheet total);
- 75% of bank debt is guaranteed of which 90% by the government;
- Debt limit of €1.5 million applies and the term is limited to 8 quarters.

- II. **Guarantee bank loans (B) (“Garantie Ondernemingsfinanciering – GO”)** to increase bank debt capacity and optimize financing conditions

#### Key elements

- Mid and large size enterprises can apply for the government guarantee fund;
- Government provides for a 50% guarantee on bank debt and bank guarantees;
- Limit of €150 million per enterprise;
- Apply at bank to benefit from the government guarantee.

- III. **Guarantee government for working capital** of agriculture and horticulture enterprises

- IV. **Interest reduction on microcredits** for self-employed individuals and small enterprises

### 13.4. Other measures

- I. **Subsidy digital care**

Healthcare providers that develop digital care can receive a subsidy of € 50,000. Due to the large number of requests, this measure is temporarily not open to new requests.

#### Useful links:

- Dutch Chamber of Commerce’s website: click [here](#)
- Dutch Government’s website in English: click [here](#)

For updated information please contact your Taxand team in the Netherlands at <https://www.taxand.nl/en/>

## 14. PERU (UPDATED 02.04.20)

On March 11, 2020, the World Health Organization classified the outbreak of Coronavirus (COVID-19) as a pandemic. Therefore, through Supreme Decree No. 008-2020-SA, a National Health Emergency was declared in Peru for a 90 calendar-day period. Shortly after, on March 15, through Supreme Decree No. 044-2020-PCM, a National State of Emergency was declared for a 15 calendar-day period, during which Peruvian citizens were bound to remain in social isolation (quarantine). Subsequently, on March 27, through Supreme Decree No. 051-2020-PCM, both the National State of Emergency and the quarantine, were extended for an additional 13 calendar-day period (until April 12).

### 14.1. Tax and custom measures

- **New dates for the Annual Income Tax Return (for tax debtors with net income of up to 5,000 Tax Units<sup>9</sup>)**

The scheduled deadlines to file the Annual Income Tax and Financial Transaction Tax returns, as well as to perform tax payments thereof, have been modified for tax debtors who, in fiscal year 2019, have obtained up to 5,000 Tax Units in (i) third category net income (corporate income) or (ii) income belonging to other categories that altogether do not exceed said amount.

For such purposes, the new deadlines will range between June 24 (for taxpayers whose Tax ID ends in 0) and July 9 (for 'Good Taxpayers' and taxpayers that are not required to register in the Taxpayer Registry).

- **Extension for monthly tax obligations**

For tax debtors who, in fiscal year 2019, have obtained up to 2,300 Tax Units<sup>10</sup> in (i) third category net income (corporate income) or (ii) income belonging to other categories that altogether do not exceed said amount, the following filings will be extended:

- a) Declaration and payment of monthly tax obligations, regarding February 2020:

Due date according to the last digit of the Taxpayer ID					
1	2 and 3	4 and 5	6 and 7	8 and 9	'Good taxpayers'
June 4, 2020	June 5, 2020	June 8, 2020	June 9, 2020	June 10, 2020	June 11, 2020

- b) Declaration and payment of other tax obligations, such as fifth and fourth category income tax withholdings and EsSalud contributions, as well as the filing of the monthly payroll (PLAME), regarding February 2020:

Due date according to the last digit of the Taxpayer ID					
1	2 and 3	4 and 5	6 and 7	8 and 9	'Good taxpayers'
April 17, 2020	April 20, 2020	April 21, 2020	April 22, 2020	April 23, 2020	April 24, 2020

<sup>9</sup> According to the Tax Unit value for fiscal year 2019, such amount is equivalent to S/21'000,000 (approximately US\$6'000,000).

<sup>10</sup> According to the Tax Unit value for fiscal year 2019, such amount is equivalent to S/9'660,000 (approximately US\$2'760,000)

- c) The maximum dates of delay for the Sales and Income Electronic Ledger and the Purchase Electronic Ledger, regarding February 2020:

Due date according to the last digit of the Taxpayer ID				
2 and 3	4 and 5	6 and 7	8 and 9	'Good Taxpayers'
June 4, 2020	June 5, 2020	June 8, 2020	June 9, 2020	June 10, 2020

Notwithstanding the aforementioned, for tax debtors who, in fiscal year 2019, have obtained up to 5,000 Tax Units in (i) third category net income (corporate income) or (ii) income belonging to other categories that altogether do not exceed said amount, the following filings will be extended:

- a) Declaration and payment of monthly tax obligations, regarding March and April 2020:

	Due date according to the last digit of the Taxpayer ID						
	0	1	2 and 3	4 and 5	6 and 7	8 and 9	'Good Taxpayers'
March 2020	June 3, 2020	June 4, 2020	June 5, 2020	June 8, 2020	June 9, 2020	June 10, 2020	June 11, 2020
April 2020	June 12, 2020	June 15, 2020	June 16, 2020	June 17, 2020	June 18, 2020	June 19, 2020	June 22, 2020

- b) The maximum dates of delay for the Sales and Income Electronic Ledger and the Purchase Electronic Ledger, regarding March and April 2020:

	Due date according to the last digit of the Taxpayer ID						
	0	1	2 and 3	4 and 5	6 and 7	8 and 9	'Good Taxpayers'
March 2020	June 2, 2020	June 3, 2020	June 4, 2020	June 5, 2020	June 8, 2020	June 9, 2020	June 10, 2020
April 2020	June 11, 2020	June 12, 2020	June 15, 2020	June 16, 2020	June 17, 2020	June 18, 2020	June 19, 2020

- **Additional measures to favor the availability of resources and grant other facilities to tax debtors in the context of the National State of Emergency**

Taxpayers with deferrals and/or installments or a refinancing of their tax debts granted until March 15, 2020, are subject to the following stipulations, provided that as of said date the Peruvian Tax Administration (SUNAT) has not notified the loss of such facilities:

- i. The installment payment regime will be lost if:
- a) The full amount of two (2) consecutive installments is owed. Installments due on March 31 and April 30 will not be considered for such purposes, provided they are paid, together with their default interest, on or before May 29.

- b) The full amount of the last installment is not paid within the established term. The installment payment regime will not be lost if the last installment expires on March 31 or April 30 and, together with its default interest, is paid on or before May 29.
  - ii. The deferral will be lost if the taxpayer fails to fully pay the deferred tax debt and the corresponding interest on the established due date. Nonetheless, if said due date is on March 31 or April 30, the deferment will be lost if it is not paid on or before May 29.
  - iii. Deferral with installment payments:
    - a) Both will be lost if the full interest of the deferral is not paid within the established due date. Nonetheless, if said due date is on March 31 or April 30, they will be lost if not paid on or before May 29.
    - b) The installment payment regime will be lost if:
      - a. The application fee is not paid on the scheduled dates. If said fee had to be paid on March 31 or April 30, the regime will be lost if it is not paid on or before May 29.
      - b. Having paid the application fee and the interest for deferral, the full amount of two (2) consecutive installments is owed. For such purposes, the fee that falls due on March 31 and April 30 is not considered, provided it is paid together with the default interest on or before May 29.
    - c) The full amount of the last installment is not paid within the established period. If the due date is March 31 or April 30, the installment payment regime will be lost if it is not paid on or before May 29.

- ***Discretionary power to administer sanctions for tax offenses during a State of National Emergency***

Tax infractions incurred by tax debtors during the National State of Emergency (that is, until April 12), including violations committed or detected between March 16, 2020 and March 18, 2020, will not be administratively sanctioned.

Notwithstanding the preceding, the refund or compensation of the payments related to such infractions, made prior to the issuance of the Resolution that approved this measure (March 18, 2020) will not proceed.

- ***Suspension of deadlines***

The calculation of deadlines in the context of administrative proceedings subject to positive and negative silence are suspended for 30 business days (from March 15, 2020), except for the cases where the corresponding resolution has already been issued by the competent authority but is still pending notification.

- ***Zero tariffs for imports of goods related to health emergency***

The tariff duty rate for the importation of health emergency goods has been removed.

- ***Modification of interest rates applicable from April 1, 2020 to taxes administered or collected by SUNAT***

- a) Default Interest Rate

For debts in national currency, the Default Interest Rate has been reduced to 1% per month (formerly, 1.2%) and for debts in foreign currency, the Default Interest Rate has been set at 0.50% per month (formerly, 0.60%).

- b) Refund Interest Rate.

For tax refunds in national currency arising from an undue or an overpayment of tax, the applicable Interest Rate has been reduced to 0.42% per month (formerly, 0.5%). In the case of unperformed VAT withholdings and perceptions, however, the provisions of R.S No. 296-2011/SUNAT will remain applicable (i.e. 1% Default Interest Rate per month).

As for tax refunds in foreign currency, the applicable Interest Rate has been reduced to 0.25% per month (formerly, 0.30%).

- **Request for free disposition of the amounts deposited in SPOT accounts (detraction accounts)**

Requests for free disposition of the amounts deposited in SPOT accounts that initially should have been filed within the first three (3) business days of April 2020, can now be filed between April 8 and 14, 2020.

Requests for free disposition of the amounts deposited in SPOT accounts that initially should have been filed within the first five (5) business days of April 2020, can now be filed between April 8 and 16, 2020.

- **Law No. 31011 – Delegation of legislative powers in favor of the Executive**

The Executive aims to implement the following measures in a 45 calendar-day term:

- Suspension of current macro-fiscal rules:** The application of macro-fiscal rules for the Non-Financial Public Sector might be suspended for the year 2020.
- Extension of Value Added Tax (VAT) early recovery regarding the acquisition of capital goods:** In order to encourage the acquisition of capital goods (RERA MYPE), the early recovery of VAT might be extended for an additional three years, and its scope might also be widened.
- Special deferral and installment of tax debts for sectors affected by COVID-19:** Certain provisions might be established in order to facilitate the payment of tax debts and other income administrated by SUNAT, regardless of their status.
- Modification of Third Category Income Tax advanced payments:** The determination of the income coefficient for the purposes of Third Category Income Tax advanced payments might be reduced or suspended.
- Deduction of donations for Income Tax purposes:** Deduction of expenses generated by donations performed in fiscal year 2020, which cannot be applied in the corresponding fiscal year, might be dragged during the two following fiscal years.
- Accelerated depreciation of certain fixed asset accounts:** The objective is to modify the Income Tax Law so that companies can make use of the accelerated depreciation of certain fixed asset accounts.
- Extension for SUNAT regarding digital signatures:** The objective is to extend SUNAT's prerogative to perform registration and verification duties.
- Extension of the loss carryover period:** The "carryover" of losses generated in fiscal year 2020, might be exceptionally extended in favor of the taxpayers affected by the crisis caused by COVID-19, as many companies will generate large losses in 2020 that may not be exhausted in the following four years.
- Modification of tax regimes for smaller companies:** The objective is to simplify the existing tax regimes for smaller taxpayers and that certain tax implications are taken into account to establish the actual size of a company.

- j) **Economic and financial measures for economic recovery:** Complementary measures to the “Economic Plan to face COVID-19” might be adopted, focusing on the economic recovery phase.

## 14.2. Financial measures

- **Superintendency Resolution No. 033-2020-SMV/02**

The following provisions are applicable to issuing companies with securities registered in the Public Registry of the Securities Market (PRSM), legal entities registered in the PRSM and Collective Funds Management Companies as well as the autonomous equities they administer:

- a) The deadline regarding the presentation of financial information and annual reports for the 2019 financial year has been extended until June 30, 2020.
- b) The deadline for the presentation of intermediate information as of March 31, 2020 has been extended until July 31, 2020.
- c) The deadline for the presentation of risk classification reports based on audited financial information from the 2019 financial year has been extended until August 31, 2020.
- d) The deadline for the presentation of the Economic Group has been extended until September 30, 2020.
- e) Required reports and information to be submitted through the MVNet System.
- f) As of March 21, 2020, terms for procedures at the Superintendence of the Securities Market (SMV), including the ones that are regulated by special laws and provisions and those who were pending at the moment of the entry into force of the Decree (March 22, 2020), are suspended for thirty (30) days.
- g) The deadlines regarding the presentation of other information will be suspended for the duration of the National State of Emergency.

- **Urgency Decree No. 029-2020:** The Micro and Small Enterprises (also known as “MYPE”) Support Fund has been created in order to secure loans for working capital granted to the MYPE, as well as restructuration and refinancing of their debts.

- **Promotion of public investment and economic reactivation - Law No. 31011**

The Peruvian Government intends to accelerate and optimize the execution of public investments by simplifying the procedures in order to avoid administrative costs and reducing the incentives to extend procedure terms. In addition, it intends to give provisions such as extensions of licenses with temporal validity, continuity of the virtual evaluation of administrative procedures, alternatives of citizen participation, among others.

Also, appropriate measures might be implemented in order to optimize the capability of investment of Local and Regional Governments, which represent two thirds ( $\frac{2}{3}$ ) of the public investment.

## 14.3. Social Measures

- **Employment**

- **Urgency Decree No. 026-2020:** public and private sector employers are authorized to implement remote work for their employees for the duration of the sanitary emergency. This measure includes workers who are outside the country.
- Employees diagnosed with COVID-19 are not authorized to provide services.
- The Social Health Insurance (EsSalud) is authorized to grant a subsidy to workers who have been diagnosed with COVID-19 and whose monthly remuneration is of up to 2,400 soles for the first 20 days of disability

- **Law No. 31011:** The government intends to enforce protection of workers that may be left unemployed because of COVID-19, by assigning resources to employment programs, as well as giving economical support for the care of relatives of people with COVID-19 or in groups at risk, facilities to minor governments and small companies (MYPES) for the payment of their contributions to EsSalud.
- **Allowance**
  - **Urgency Decree No. 026-2020:** Extraordinary allowance for health personnel and an extraordinary non-remunerative allowance for the effective labor of healthcare staff that provides assistance regarding the COVID-19. This income is not remunerative and shall be delivered during the term of the sanitary emergency and up to 30 days after the end such term.
  - **Urgency Decree No. 027-2020:** a special allowance of 380 soles has been authorized in favor of the households in poverty or extreme poverty. The aforementioned allowance will be granted once and during the term of the National Sanitary Emergency.
- **Health provisions**
  - **Law No. 31011:** Regulation regarding medicines, equipment, medical supplies and the guarantee of the safety and health of people that provide health services might be issued, as well as investment in scientific-technological research, in order to face epidemics and pandemics, both in the present and future context.

#### Other measures

- **Supreme Decree No. 044-2020-PCM:** Since March 16, 2020, international transport has been suspended with some exceptions for Peruvians abroad and foreigners in Peru, as well as flights coming from Europe and Asia, and flights from the national territory to the aforementioned destinations.
- **Law No. 31011 – Delegation of legislative powers in favor of the Executive Power**
  - **Protection of the productive, extractive and service sectors:** Provisions regarding the reactivation and promotion of, among others, the agriculture, irrigation, aquaculture and fishing sectors might be enacted (e.g. protection measures, new regulation, maintenance, etc.).
  - **Cultural and tourism promotion:** Special measures will also be established in order to strengthen the promotion of the exports of goods and services with added value, receptive and internal tourism and the attraction of business investments, as well as to reactivate the activities of service providers who have been affected. Additionally, free competition will be optimized and normality in the continuous operation of the market and consumer rights will be guaranteed.

Finally, the entry into force of the Prior Control of Business Concentrations will be extended (initially on August 20, 2020) and corresponding changes will be made, if necessary. Regarding the insolvency system, the creation of a special transitory procedure is sought to deal efficiently, quickly and at low cost, with potential insolvency situations.

#### References:

- Peruvian Government's official website: <https://www.gob.pe/>
- Peruvian Ministry of Economy and Finance's official website: <https://www.gob.pe/mef>
- Peruvian National Tax Administration's official website: <http://www.sunat.gob.pe/>

## 15. POLAND (UPDATED 02.04.20)

On 31.03.2020 an act referred to as “Anti-crisis Shield” was published in the official Journal of Poland. Most of the provisions provided by the act already entered into force as of 31.03.2020

The aid package (“Anti-crisis shield” Act, as well related acts and resolutions) address 5 main pillars including different areas of the economy. The value of the package is estimated at PLN 212 billion (€ 47.3 billion), i.e. almost 10% of the Polish GDP (c.a. PLN 60bln covered from the state budget, remaining amount covers providing additional liquidity to the market in the form e.g. state back guarantees from medium and large business, up to 80% ),

It should be noted that certain measures may be discussed from the perspective of state aid.

### 15.1. Tax measures

- **Pillar II “for entrepreneurs” i.a.**

- **Deferral of yearly CIT for 2019 until 31.05.2020** – tax return plus payment of tax (standard term: 31.03.2020)
- Payment of yearly PIT for 2019 and submission of PIT return for 2019 until 31.05.2020 (instead of 31.04.2020) will not be penalized under fiscal penal code (but penalty interest may accrue)
- **Postponement until 1.06.2020 PIT advances for March and April 2020** due on salaries and social security payments for remitters who suffered negative economic consequences in connection with COVID-19 outbreak
- Extension until **20.07.2020 of payment deadline of the so-called minimum tax for March – May 2020 (special tax on commercial real estate)** under condition that in those months the taxpayer:
  - a) suffered negative consequences in connection with COVID-19 outbreak and
  - b) recorded at least a 50% decrease in revenues compared to the corresponding month of the previous tax year or average revenues in a given year if it started operating in 2019.
- **Potential tax exemptions from the real estate tax** to entrepreneurs whose financial liquidity has worsened due to COVID-19 – to be introduced by local governments
- **On request - exemption** from social security contributions for self-employed and small employers (hiring up to 9 employees) for 3 months, if their revenues decreased by 50%
- **On request - deferral** of the payment of social security contributions or distribution in instalments without additional charges
- **No prolongation fee (currently 4%)** for applications for postponement / splitting into installments of tax payments or tax arrears or postponement / splitting into installments of liabilities resulting from social security contributions due for the period starting 01.01.2020
- If certain conditions are met possibility to deduct **2020 tax loss, one-off up to 5 m PLN** through adjustment of 2019
- Certain tax benefits such as one-off depreciation of fixed / intangible assets or amended rules of R&D relief for tax payers incurring expenses aimed at countering COVID-19 effects
- **SAF-T\_VAT**: postponement to June 20, 2020
- **Retail sales tax**: suspension to December 31, 2020
- **New VAT rates matrix**: postponement to July 1, 2020
- Postponement of the obligation to notify the actual ultimate beneficial owner to the UBO register for 3 months.

- **Suspension of the deadlines for DAC-6 reporting** running from March 31 to June 30, 2020
- Extension of the deadline for submitting detailed TP from (TP-R) to September 30, 2020 - for selected entities
- One change to could be viewed as rather negative one concerns applications for the individual tax rulings: **extension for 3 months of the deadline for issuing an individual tax ruling for applications submitted but not resolved before the entry into force of the law and also for the applications submitted after the entry into force of the law**
- **Changes in regulations of Commercial Companies Code** enabling the possibility of making decisions by board of directors and supervisory board in remote mode

## 15.2. Social measures

- **Pillar I, “defense of employees”**
  - Three possible paths to obtain additional financing for employees' salaries are introduced a) co-financing under so-called downtime b) co-financing of employees' salaries, maximum threshold: half of the remuneration, up to 40% of the average remuneration from the previous quarter c) subsidies from the Poviato Governor (Starosta). Further conditions to use any of those paths apply. Financing / subsidy is granted for 3 months
  - "credit vacation" – upon request in case of consumption / mortgage credit
  - One-off support for the self-employed and those working under civil law contracts up to 80% of the minimum wage.
  - Extension of temporary residence permits for foreigners on the territory of the Republic of Poland
- **Pillar III “Healthcare protection”**
  - Approximately PLN 7.5 billion (€ 1.6 billion) will be allocated for this purpose, in particular for the infrastructure of infectious diseases hospitals and protection measures.

## 15.3. Financial measures

- **Pillar II “for entrepreneurs”**
  - no penalties for delays in public tenders;
  - postponement of deadline for preparation and approval of financial statement / consolidated financial statement by 3 month (or 2 months for entities subject to supervision of Polish Financial Supervisory)
  - low interest loans up to PLN 5,000 (€ 1,100) for micro-enterprises
  - refinancing of certain lease agreements in transport sector
  - extension of bank working capital loans;
  - Very controversial: **effective rent reduction to nil for tenants, whose activities has been banned or restricted by regulations issued in relation to the state of epidemic threat or the state of epidemic (i.e. tenants in commercial areas such as shopping malls).**
  - Postponement of the deadline to pay perpetual usufruct fee from March 31th 2020 to June 30th 2020
  - Certain additional solutions may be available for entertainment and tourism industries
  - Certain regulations to protect consumers were also introduced such as limiting of non-interest credit costs or providing possibility to establish maximum prices of certain goods or services that have a strategic meaning for healthcare in general.

- **Pillar IV “Strengthen the Polish financial system”**

- Polish Financial Supervision Authority (KNF) and Ministry of Finance regulatory package;
- National Bank of Poland (NBP) liquidity package.
- State backed guarantees up to 80% to secure medium and large enterprises credits

- **Pillar V “Public investments”**

- The government assumes the creation of a **special fund of at least PLN 30 billion** (€ 6,6 billion) foreseen to strengthen the expenditures for public investments.

The fund consists of national resources, independent from UE’s support. Within the package is foreseen to finance investments in the area of construction of local roads, digitization, modernization of schools, energetic transformation, environment protection, alteration of different elements of state’s architecture and infrastructure (energetic, telecommunication, internet, roads and railways).

- Solutions for companies executing public contracts are included in the package as well. As a priority, due to problems notified by entrepreneurs related to the absence of employees and continuity of supply chains, a suspension in the charging of contractual penalties was announced.

**Useful links:**

- Government of Poland’s website: click [here](#).

*For updated information please contact your Taxand team in Poland at <https://crido.pl/>*

## 16. PORTUGAL *(UPDATED 02.04.20)*

In light of the COVID-19 crisis, the Portuguese Government has adopted several measures covering tax and other financial areas.

### 16.1. Tax measures

The tax deferral measures are primarily intended to support small and medium-sized enterprises but their application to others depends on a demonstration of a reduction of activity or to specific sectors impacted by state of emergency closure measures.

- ***Installment payments applicable for VAT and CIT/PIT withholding taxes***

The payment of VAT and CIT/PIT withholding taxes may be deferred and paid in instalments without the need of providing guarantees in the following terms:

- payment in three monthly installments; or
- payment in six monthly installments.

This measure applies to companies and self-employed with a turnover lower than € 10 million in 2018, whose activities are closed under article 7 of the Decree n.º 2-A/2020 (State of Emergency Rule), or those whose activity was initiated during 2019.

Companies not fulfilling the said requirements may also request the deferral rule in cases where there is at least a 20% decrease on the average invoicing (communicated via the electronic invoicing system) of the preceding three months of the tax obligation as compared to the same period of 2019. To apply for this, the company will need a certificate confirming the activity decrease issued either by Statutory Auditor (ROC) or Certified Accountant (TOC).

The request to pay in installments is made electronically until the end of the voluntary payment period.

- ***Social Security contributions***

There was a suspension of the payment date of the employees' contribution withheld by the employer and payable to the authorities on 20 of March. These contributions can be exceptionally paid by 31 of March.

There is also the possibility to reduce to 1/3 any Social Security contributions due between March and May 2020 for companies, and April and June 2020 for self-employed. For the companies which already paid the Social Security contributions on 20 March may still defer the payment of the Social Security contributions due between April and June 2020.

The remaining amount 2/3 should be payable under the same installment deferral rules set out above, i.e. payable between July and September 2020 or between July and December 2020, depending whether payable in three monthly installments or six monthly installments (free of interest).

The deferral measures apply to: (i) self-employed; (ii) companies with less than 50 employees; (iii) Companies with 50-249 employees in cases where there is at least a 20% decrease on the average invoicing of the preceding three months (as from the payment obligation) as compared to the same period of 2019; (iv) Companies with more than 250 employees which have a at least a 20% decrease on the average invoicing (communicated via the electronic invoicing system) or whose activity was initiated less than 12 months and: (a) are Private Institutions of Social Solidarity (IPSS); or (b) are from the tourism sector, civil aviation sector and any other sector that is mandatory closed under article 7 of the Decree n.º 2-A/2020 (State of Emergency Rule); or (c) their activities are suspended under Decree-Law n.º 10-A/2020.

The proof of decrease of activity is issued either by Statutory Auditor (ROC) or certified accountant (TOC).

The companies or self-employed that do not pay the 1/3 in the respective months cannot benefit from this deferral measure. In addition, companies that unduly benefit from the payment in installments will have to pay the total amount in June plus interest.

- **Ongoing Tax Procedures**

Suspension until 30 of June 2020 of any ongoing tax and social security enforcement procedures currently in progress or expected to be initiated by the respective authorities.

- **Other tax measures adopted on tax obligations**

These additional measures reinforce earlier tax measures, which included:

- **Postponement of the payment of the first CIT** “special payment on account” (“*pagamento especial por conta*”) from March 31<sup>st</sup> to June 2020;
- **Extension of the deadline** to submit the Corporate Income Tax return (*Modelo 22*) until July 31<sup>st</sup>;
- **Extension of the payment** of the first CIT “payment on account” and “additional payment on account” (“*pagamento por conta*”) from July 31<sup>st</sup> to August 31<sup>st</sup>;
- **Extension of VAT exemption** for donation of goods to the state, social security public institutions and non-profit non-governmental organizations for subsequent distribution to people in need, which now includes people who have received health care in the current pandemic context and are deemed as victims of catastrophe;
- **Simplification procedures** for filing of VAT declarations until June and impediments and exceptional recognition of PDF invoices as “electronic invoices” in April, May and June for every legal effect;
- **Extension of Monthly Stamp Tax Declaration (“DMIS”)** that becomes only mandatory for facts as from 1 January 2021 onwards. Stamp Tax assessment and payment obligations referring to 2020 can still be fulfilled through the former procedures and with deferral for the first months; and
- **Temporary exemption of Social Security contributions** for entities benefiting from the exceptional and temporary measures set for labor protection in the context of the Covid-19 pandemic. They are applicable to entities (i) whose activities are closed under Article 7 of the Decree 2-A/2020 (State of Emergency Rule), (ii) had to, totally or partially, stop their activities or (iii) when had, at least, a 40% decrease on invoicing in last 30 days before the submission of the request, with reference to the average invoicing of the preceding two months, as compared to the same period of 2019. To apply for this exemption in (ii) and (iii) situations, the company will need a certificate confirming the activity decrease issued either by Statutory Auditor (ROC) or certified accountant (TOC).

## 16.2. Financial measures

The Portuguese government announced it will open lines of credit with an overall amount of 3,000 m EUR to highly affected economic sectors, namely to :

- food and beverage services on the amount of 600m EUR (of which 270m EUR are exclusive to Micro and Small Medium Enterprises (“MSMEs”));
- tourism industry on the amount of 200m EUR (of which 75m EUR are exclusive to MSMEs);
- lodging sector on the amount of 900m EUR (of which 300m EUR are exclusive to MSMEs);
- industry sector on the amount of 1,300m EUR (of which 400m EUR are exclusive to MSMEs).

The existing credit lines are also available, namely: (i) an amount of 200m EUR to support treasury shortages of all eligible companies; and (ii) an amount of 60m EUR to Micro companies of tourism sector established under Legislative Order n.º 4/2020. The maximum threshold per company amounts to 1,5m EUR with a maturity of 4 years.

A moratorium regime was also put in place with exceptional measures for protecting families, companies and welfare institutions, in relation to the weight of their debt service obligations which will apply until September 30, 2020.

**Useful links:**

- Government of Portugal website: [click here](#).
- List of legal measures In light of the COVID-19 crisis: [click here](#).

*For updated information please contact your Taxand team in Portugal at [www.garrigues.com/](http://www.garrigues.com/)*

## 17. SPAIN (UPDATED 02.04.20)

### 17.1. Tax measures

- **Royal Decree-Law 7/2020: Suspension of payments for SMEs**

**Royal Decree-Law n° 7/2020 dated March 12<sup>th</sup>, 2020** on urgent measures taken to alleviate the economic effects of Covid-19<sup>11</sup> was published on March 13<sup>th</sup>, 2020.

These measures are applicable as of the publication of the decree and will continue to apply as long as the Government considers that the circumstances so require.

- The decree introduces the **possibility of deferring tax payments** for companies meeting the following conditions:
  - The taxpayer's **turnover for the year 2019** does not exceed **€ 6,010,121.04**;
  - The **amount of taxes due** shall not exceed € 30,000; and
  - Tax payments under the scope of this deferral are those due, by assessment or self-assessment, between **March 13<sup>th</sup> and May 30<sup>th</sup>, 2020**.

Taxpayers meeting these conditions may defer payment of their taxes, including withholding taxes, payments on account, VAT and CIT prepayments (which are usually excluded from the possibility of any deferral).

The deferral **will apply for 6 months** and no interest will accrue during the first 3 months of deferral.

The Spanish tax authorities have also issued **provisional instructions** authorizing the deferral under the Decree.

Taxpayers wishing to request the deferral must submit, in the usual manner and in due time, a self-assessment of the amounts payable by the taxpayer that they wish to defer, by ticking the "acknowledgement of debt" option (*reconocimiento de deuda*).

A series of practical recommendations regarding the submission of the form are available on the website of the Spanish tax authorities.

- **Royal Decree-Law 8/2020: Tax Measures after the declaration of the State of Alarm**

**Royal Decree 463/2020**, of March 14<sup>th</sup>, 2020, published on the Official State Gazette of March 14<sup>th</sup>, declared the State of Alarm. In this Royal Decree it was stated that for all court orders under procedural laws, the time limits have been suspended and the time periods have been interrupted. These time periods will resume when the Royal Decree or any of its extensions cease to be in force.

This Royal Decree has also suspended the time limits and interrupted the time periods for handling all the procedures of public sector entities, except for time limits and time periods corresponding to taxes, as confirmed by the **Royal Decree 465/2020**, of March 17<sup>th</sup> 2020 (published on March 17<sup>th</sup>), which has amended the Royal Decree 463/2020. Time limits and time periods corresponding to taxes have been amended in Royal Decree-Law 8/2020 mentioned below.

The March 18<sup>th</sup>, 2020 edition of the Official State Gazette has published **Royal Decree-Law 8/2020** of March 17<sup>th</sup>, 2020 on urgent and extraordinary measures to confront the economic and social impact of COVID-19. The Royal Decree-law comes into force on its publication date, for a one-month term, and allows this term to be extended. We summarize below the main measures affecting businesses.

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<sup>11</sup> Royal Decree-Law 7/2020, of 12 March 2020, for the adoption of urgent means of response to the economic impacts of COVID-19.

Tax related measures are the following:

- **Suspension of tax time periods:**

- Lengthening of time periods in administrative procedures:

The time periods mentioned below are lengthened **until April 30<sup>th</sup>, 2020**, if they had not ended on the date of entry into force of this royal decree-law (i.e. March 18<sup>th</sup>, 2020):

- The time periods for payment of tax debts in the voluntary period of tax debts (voluntary payment) or after the enforced payment period has commenced (enforced collection procedures after the notification of the order, so called *providencia de apremio*).

In other words, **the time periods for filing and paying self-assessments** under article 62.1 **have not been lengthened or been affected** in any way (ongoing tax returns such as withholding taxes, prepayments, VAT, etc.).

- The expiry dates for time periods and split payments under deferred and split payment agreements that have already been granted.
- The time periods related to auctions and allocations of property that are referred to in article 104.2 and article 104 bis of the General Collection Regulations.
- Certain “administrative procedural periods”: Time periods for complying with demands, attachment orders and requests for information with tax relevance, together with the time periods for submitting pleadings in relation to decisions commencing the period for pleadings or for inspection of the case file and comments by the taxpayer in the following procedures: procedures for application of taxes, penalty procedures, procedures for a null and void declaration, procedures to claim refunds of incorrectly paid tax and procedures for correction of administrative errors and revocation.
- The time periods for foreclosure of real estate collateral in the context of administrative enforced collection procedures.
- The time periods for complying with demands and requests for information from the General Directorate of the Cadaster.

It delays until **May 20<sup>th</sup>, 2020** (unless the time periods granted by the royal decree-law are greater, in which case these time periods will be applicable) the expiry dates of the time periods listed above if notified on or after the date of entry into force of the royal decree-law (i.e. March 18<sup>th</sup>, 2020). The extension for “administrative procedural periods” until the referred date (May 20<sup>th</sup>) is limited to demands, attachment orders, requests for information or decisions commencing the period for pleadings or for inspection of the case file and comments by the taxpayer, and communications from the Directorate General of the Cadaster

All of the above must be interpreted without prejudice to the specific provisions in customs legislation on time periods for pleadings and fulfillment of demands or requests. In this field, no periods are lengthened or procedures modified by this Royal Decree-Law 8/2020.

In any event, the party with tax obligations may fulfill those obligations within the original time period, without this preventing the formalities being deemed completed.

- Calculation of time periods relating to the maximum length of procedures for application of taxes and of statute of limitations period:

It provides that the period between the entry into force of the royal decree-law and April 30<sup>th</sup>, 2020 will not be included for the purpose of calculating the maximum length of any procedures for application of taxes, penalty and review procedures conducted by AEAT; or of any procedures commenced by the Directorate General of the Cadaster.

The authorities are allowed, however, to continue with ordinary conduct of tax procedures, by being recognized the power to set in motion, order and carry out any steps they consider absolutely necessary and make notifications, demands, requests for information or grant periods for inspection of case files and comments. It must be taken into account, however, that, as mentioned in the preceding section, the periods for fulfillment of these steps by the taxpayer have been lengthened until April 30<sup>th</sup> or May 20<sup>th</sup>, depending on the case concerned.

Along the same lines, it provides that the period between the entry into force of the Royal Decree-Law 8/2020 and April 30<sup>th</sup>, 2020 will not be included for the purpose of calculating statute of limitations periods (article 66 of the General Taxation Law) or time bars for tax purposes.

For the sole purpose of calculating the statute of limitations periods mentioned above and those relating to appeals for reconsideration and economic-administrative proceedings, the decisions bringing them to an end will be deemed notified where it is evidenced that any single attempt was made at notification between the entry into force of the royal decree-law and April 30<sup>th</sup>, 2020. The time period for lodging economic-administrative appeals or claims against tax acts and for appealing in the administrative jurisdiction against decisions rendered in economic-administrative proceedings will not start to run until the end of that period or until the notification has taken place, if this notification is made later.

- **Measures in the customs field:**

To speed up customs formalities for imports in the industrial sector, so as to prevent effects on the supply chain of goods from third countries or a halt in exports, it provides that the person in charge of the department of customs and excise and other special taxes at the AEAT will be able to order that the declaration procedure and customs clearance must be conducted by anybody or public official from the customs and excise and special taxes division.

- **Other tax measures: exemption in relation to transfer and stamp tax for mortgage transactions:**

New exemption from Stamp Tax on notarized documents for any deeds recording contractual novation of mortgage loans and credit facilities drawn up under the royal decree-law. Royal Decree-Law 11/2020 mentioned below clarifies that this exemption is applied only in cases relating to the moratorium on payment of the mortgage debt for the purchase of the principal residence, regulated by Royal Decree-Law 8/2011.

- **Note NI GA 06/2020 of the Customs Department: VAT and custom duties exemption**

The Customs Department has published Note NI GA 06/2020 dated March 23<sup>rd</sup>, 2020, in which it establishes reliefs of custom duties and VAT exemption for imports of goods, necessary for medical treatment of individuals affected by COVID-19 and for avoiding the spread of viruses. This reliefs and exemption apply to imports made by public entities or by authorized private entities with charitable or philanthropic purposes.

The application of these measures depend on the European Commission issuing a Decision, which has already been requested by **the** Spanish Customs Authorities. Besides, for VAT exemption, a specific authorization issued by the corresponding Delegation or Administration of the State Tax Agency is needed.

Without prejudice to these conditions, the import of goods may be made provisionally under the reliefs of custom duties and VAT exemption, subject to the lodging of a security and the commitment of payment in case the European Commission does not finally take the requested Decision. The security will be redeemed when the European Commission Decision is **eventually** adopted. For VAT exemption, in any case, the referred authorization is needed.

***Royal Decree-Law 11/2020: Complementary Tax Measures to those approved by the Royal Decree-Law 8/2020***

At the view of previous Royal Decrees published and Royal Decree-Law 8/2020, some doubts arose regarding the scope of measures adopted in the field of tax procedures. Royal Decree-Law 11/2020 rectifies and clarifies the doubts and extends the provisions of measures. In this sense:

- **Suspension of tax periods**

The suspension of tax time periods introduced by Royal Decree-Law 8/2011 referred only to tax steps and procedures corresponding to the State Tax Agency. Now, this suspension is extended to the tax steps and procedures of the same type carried out or conducted by autonomous community governments and local government authorities.

It is also clarified that this suspension applies to procedures that started to be conducted before the entry into force of Royal Decree-Law 8/2020 (this clarification made to cover days between the declaration of the state of alarm in March 14<sup>th</sup> and the entry into force of Royal Decree-Law 8/2020 in March 18<sup>th</sup>).

- **Calculation of time periods for lodging appeals for reconsideration and economic administrative claims**

It is also clarified that, between the entry into force of the state of emergency (March 14, 2020) and April 30, 2020, the time period for lodging appeals for reconsideration or economic administrative claims governed by the General Taxation Law, and its implementing regulations, will start to run from April 30, 2020, in cases where the time period had already started running and had not ended on March 13, 2020, and also where the administrative act or decision that is the subject-matter of the appeal or claim had not yet been notified.

- **Calculation of time periods relating to the maximum length of procedures for application of taxes and of the statute of limitations period.**

Royal Decree-Law 8/2020 provided that the period between its entry into force (March 18<sup>th</sup>, 2020) and April 30<sup>th</sup>, 2020 will not be included for the purpose of calculating the maximum length of any procedures for application of taxes, or penalty or review procedures conducted by the State Tax Agency; or of any procedures commenced by the Directorate General of the Cadaster.

RDL 11/2010 requires this period to run between the entry into force of Royal Decree 463/2020 that declared the state of emergency (on March 14, 2020) and April 30, 2020, and for that period not to be included for the purpose of calculating the maximum length of the time period for enforcement of decisions of the economic-administrative tribunals.

With the same aim, RDL 11/2020 provides that, between the entry into force of Royal Decree 463/2020 (March 14, 2020) and April 30, 2020, all statute of limitations periods and time bars for any actions or rights contemplated in the tax legislation are suspended.

Those provisions will apply to procedures, steps and formalities governed by the General Taxation Law (and its implementing regulations) carried out and conducted by the Spanish state tax agency,

by the ministry of finance, or by the tax authorities of autonomous community governments and local governments.

- **Deferred customs debt regime for small and medium-sized companies, the self-employed and other individuals**

As mentioned above, Royal Decree-Law 7/2020 set out a deferral regime with no guarantees for the debts of small and medium-sized companies and the self-employed for a six-month period and with reduced interest.

Now, in relation to the payment facilities that the Union Customs Code contemplates in article 112, it allows this regime to be broadened to the customs and tax debts relating to customs declarations.

This deferral regime applies to customs and tax debts relating to customs declarations filed between April 2 and May 30 in amounts above €100 and limited, in aggregate, to €30,000 (assessed import VAT that is collected by being reported on the periodical VAT returns under the system known as “deferred import VAT” is expressly excluded from this deferral regime).

Only customers of the imported goods which are individuals or legal entities that in 2019 had a volume of business below €6,010,121.04, will be eligible for this deferral regime.

The application must be made on the customs declaration itself and notified in the manner specified for notifying the customs debt. The guarantee associated with the clearance process will be valid for obtaining the deferral, and will cover the payment of tax and customs debts until the person required to do so has complied in full with the granted deferred payment. There is an option to apply for deferred payment of the customs debt without needing to provide the relevant guarantee if serious economic or social difficulties may be inferred from the debtor’s situation.

The deferral will be granted for six months; and no late-payment interest will accrue for the first three months of deferral.

- **Suspension of assessment of VAT and of excise taxes on electricity and on hydrocarbons on the bills for electricity, natural gas and petroleum products**

Electricity and natural gas retailers and distributors of manufactured gases and piped liquefied petroleum gases are exempt from obligation to assess and pay over VAT and, where relevant, the excise tax on electricity and the excise tax on hydrocarbons relating to bills with suspended payment, until the customer has paid them in full, or six months have run from the end of the state of emergency.

- **Measures approved by autonomous community governments and local government authorities**

All measures explained above has been adopted by the Government of Spain and applies in general to all Spanish Territory. Nevertheless, there are state taxes managed by the autonomous communities, and also autonomous communities and municipalities have their own taxes. Finally, there are various provinces and autonomous communities in Spain (those of the Basque Country and Navarra) which applies their own legislation for any kind of taxes (including corporate income tax, personal income tax and others).

Since the declaration of the state of alarm, [autonomous community governments and local government authorities](#) have been adopting measures (through Decrees, Orders, Instructions and other instruments) aimed at helping companies and individuals during this period. The measures are not homogeneous and they are even changed from time to time. In general, it could be said that

autonomous community governments and municipalities are deferring tax declarations and payments to a larger extent than it is being done by Spanish Government as regards “national” taxes.

## 17.2. Main Social measures adopted

- **Royal decree-law 8/2020: social measures.**

- **Measures to make the mechanisms for temporary adjustment of activity more flexible in order to avoid layoffs**

- With respect to temporary layoffs (*regulaciones temporales de empleo* or **ERTEs**) due to force majeure:

These will be understood to be temporary layoffs having as their **direct cause a loss of activity as a result of COVID-19**, including the declaration of the state of emergency, which entails the suspension or cancellation of activities, the temporary closure of premises where people gather, restrictions on public transport and, in general, on the movement of persons and/or goods, a lack of utilities that seriously impedes the ordinary conduct of activities from continuing, or urgent and extraordinary situations due to the infection of the workforce or the adoption of preventive isolation measures decreed by the health authorities, which are duly evidenced.

The following special provisions will apply to them:

- The procedure will be commenced with an application by the company, accompanied by a report linking the loss of activity to the consequences of COVID-19, as well as the relevant documentary evidence.
  - The company must notify its application to the workers and forward the report and the documentary evidence, if any, to the workers’ representatives.
  - The labor authority must hand down a decision within five days and confine itself to establishing the existence, where applicable, of force majeure. The decision will take effect from the date of the fact or event giving rise to the force majeure.
  - Where there are no workers’ statutory representatives, the **representative committee** will be made up of the labor unions with the highest membership in the sector and with standing to form part of the negotiating committee of the applicable collective labor agreement.
- In ERTEs due to force majeure related to COVID-19, the Social Security General Treasury will **exempt the company from the obligation to pay the employer contribution**, as well as the contributions for joint collection items, while the ERTE persists. This will apply when the company, at February 29<sup>th</sup>, 2020, had less than 50 registered workers. If the company had 50 workers or more, the exemption from the obligation to pay contributions will cover 75% of the employer’s contribution.
  - In ERTEs based on the extraordinary circumstances defined in the royal decree-law, **the right to the contributory unemployment benefit** shall be recognized even if workers have not met the minimum contribution period required for such purpose. The time during which the contributory unemployment benefit is received for these reasons will not be included for the purposes of determining completion of the established maximum periods for receiving benefits.

The requirements for the extraordinary benefit due to cessation of activity have also been made more flexible.

- The special provisions set out in the royal decree-law regarding the processing of ERTEs will not apply to procedures already commenced or notified prior to the entry into force of the royal

decree-law and based on the grounds it defines. In contrast, the extraordinary measures regarding social security contributions and unemployment benefits will apply to those affected by ERTes notified, authorized or commenced prior to the entry into force of the royal decree-law, provided they are caused directly by COVID-19.

- **Encouragement of teleworking**

Organization systems will be established that allow activity to continue by means of alternative mechanisms, particularly teleworking, and companies must adopt the appropriate measures, if this is technically and reasonably possible and the effort required to adapt is proportionate. These measures must take priority over the temporary cessation or reduction of the activity. The obligation to carry out a risk assessment shall exceptionally be deemed to have been met by means of a self-assessment voluntarily carried out by the worker themselves.

- **Adaptation of timetable and reduction of working hours**

- Workers who evidence duties of care with respect to their spouse or spousal equivalent, and with respect to relatives up to the second degree of consanguinity of the worker, will be entitled to adapt and/or reduce their working hours where exceptional circumstances exist that are related to the steps necessary to prevent the community transmission of COVID-19.
- Such circumstances shall be deemed to exist when the presence of the worker is required to attend to any of the indicated persons who, by reason of age, illness or disability, require personal and direct care as a direct consequence of COVID-19.
- Exceptional circumstances will also be deemed to exist when there are decisions adopted by government authorities relating to COVID-19 that entail the closure of educational establishments or establishments of any other nature that provide care or attend to the person requiring them and, where exceptional circumstances exist that require the presence of the worker, when the person that, up to that time, had directly cared for or attended to the spouse or relative up to the second degree of the worker is not able to continue doing so due to justified reasons related to COVID-19.
- This is an individual right of each of the parents or caregivers, which must presume shared responsibility for the distribution of care duties and avoidance of the perpetuation of roles, and it must be justified, reasonable and proportionate in relation to the situation of the company, particularly in the event that various workers from the same company exercise this right.
- The initial proposal corresponds to the worker, both in terms of its scope and content, provided that it is justified, reasonable and proportionate, taking into account the specific care needs that must be provided by the worker, duly evidenced, and the organizational needs of the company. The company and the worker must do everything possible in order to reach an agreement.
- The right to adapt working hours may refer to the distribution of working time or to any other aspect of the working conditions, and may consist of a change of shift, altered timetable, flexible timetable, split or continuous working day, change of workplace, change of duties, change in the manner of performing the work, including teleworking, or any other reasonable and proportionate change, taking into account the temporary and exceptional nature.
- In the case of a special reduction in working hours, the guarantees, benefits or special provisions currently established will apply, in addition to the following special provisions:
  - it must be notified 24 hours in advance.
  - it may cover 100% of the working hours where necessary (in this case, it is specified that it must be justified, and reasonable and proportionate in light of the situation of the company).

- In the case of direct care of a relative, up to the second degree of consanguinity or affinity, who by reason of age, accident or illness cannot take care of themselves, it will not be necessary for the relative requiring care and attention to not perform a paid activity.
- The extraordinary employment-related measures will be subject to the company's obligation to maintain employment for a period of six months following the date of resumption of the activity.
- **Royal Decree-Law 11/2020 introduces some new measures**, and among them:
  - **Moratorium on contribution payments:** It allows the Social Security General Treasury to grant interest-free six-month moratoriums, to any companies and self-employed workers that so request and meet the requirements and conditions that will be laid down in a ministerial order. The moratorium will last for the period between April and June 2020, in the case of companies, and in the case of self-employed workers, between May and July 2020, provided the activities they carry on have not been suspended by reason of the state of emergency. This moratorium will not be applicable to the contribution account numbers in respect of which companies have obtained exemptions from payment of the employer's contribution and from payments of the jointly collected items, under article 24 of Royal Decree-Law 8/2020.
  - **Deferral of contributions:** Companies and self-employed workers, provided they do not have any other deferral in effect, may apply for deferred payment of their social security debts for which the stipulated payment period is between April and June 2020, subject to the terms and conditions set out in the social security legislation, and 0.5% interest is applicable.

### 17.3. Brief overview of financial measures adopted

- Set up of a **€ 100 million public guarantee scheme** to ensure liquidity for struggling businesses.
- The net indebtedness limit for Spanish official credit institute ICO, is raised by **€ 10 million euros** for the purpose of increasing the ICO facilities **providing funding** to companies and the self-employed.
- Authorization is given for an **insurance cover** facility amounting to up **€ 2 billion** for the working capital credit facilities needed for export companies out of the reserve fund for risks in international trade, for certain small and medium enterprises that are encountering liquidity problems (but which are not in technical insolvency or at the pre-solvency stage) as a result of the impact of the crisis caused by COVID-19. This insurance cover will be provided by CESCE.
- Financial measures are granted targeted at any owners of farm operations that had entered into credit facility loans as a result of the drought in 2017, who will be allowed to enter into agreements with financial institutions to extend their repayment periods by up to a year.
- Royal decree-law 8/2020 allows the sums in the Fund for "*Red Cervera*" Technical Provisions and R&D&I projects to be used to cover any of the risks that Centro para el Desarrollo Tecnológico e Industrial may incur by providing loans to finance R&D&I projects of small and medium enterprises, and of mid cap companies.
- **€ 400 million** of public money to **support payments** and self-employed entrepreneurs;
- **repayments of public loans** to companies may be deferred;
- possibility of **delaying mortgage payments** on primary residences for:
  - employees who lose their jobs; as well as
  - self-employed workers who sustain dramatic income losses due to the coronavirus crisis;
- The mortgage moratorium will last between one and three months.

#### 17.4. Main extraordinary measures for private law legal entities

- During the state of emergency period, companies, associations or foundations of all types are allowed to **hold meetings of their governing bodies** by video or audio conference call, subject to certain requirements, even if their bylaws do not specifically allow that form of holding meetings.
- During the state of emergency period, companies, associations or foundations of all types are allowed the adoption of resolutions by their governing bodies by **written consent without a meeting**, if the chairperson so decides or that procedure is requested by two of their members, even if their bylaws do not specifically allow that form of holding meetings.
- The three-month period following the fiscal year-end for the **preparation of financial statements** by legal entities required to do so is suspended during the state of emergency, and will resume for another three months from when the state of emergency ends.
- In the case of financial statements that had already been prepared on the date of declaration of the state of emergency, the period for their **verification by auditors**, where they are subject to statutory audit, is extended until two months after the end of the state of emergency.
- **Annual shareholders' (members') meetings** for approval of financial statements must be held in the three-month period following the end date of the period for preparing the financial statements.
- For **shareholders' (members') meetings** called before publication of the state of emergency and to be held after that publication, the place and date may be changed or the meeting notice may be revoked by placing an announcement on the company's website, or if the company does not have a website, in the Official State Gazette, 48 hours in advance. If the meeting notice is revoked, the managing body will have to issue a fresh meeting notice in the month following the end of the state of emergency.
- The **rights of withdrawal of members (shareholders)** have been suspended, even if there is due cause, until the state of emergency ends.
- The **reinstatement of any cooperative members** who leave the cooperative during the state of emergency is extended, until six months after the end of the state of emergency.
- If the company's term envisaged in the bylaws ends while the state of emergency is in place, the **winding-up** of the company by operation of the law is deferred until two months following the end of the state of emergency.
- Even if before or during the state of emergency, a statutory or bylaw ground requiring the company to be wound up exists, the **period for calling the meeting** that must resolve on that winding-up by the managing body is suspended until the state of emergency ends.
- If the **statutory or bylaw ground for winding-up** occurs while the state of emergency is in place, the directors will not be liable for the company's debts incurred in that period.
- In the case of **listed companies**:
  - The time limit for the obligation to publish and send the annual financial report and the auditor's report on the financial statements to the CNMV is extended to six months following the fiscal year-end. That time period is lengthened to four months for the publication of interim management statements and six monthly financial reports.
  - Annual shareholders' meetings may be held in the ten months following the fiscal year-end.
  - The board of directors may set out in the meeting notice for the shareholders' meeting remote attendance and distance voting, together with the holding of the meeting anywhere in Spain, even if these scenarios are not specifically envisaged in the company's bylaws. If the meeting notice has already been published, any of these scenarios may be set out in an additional announcement which will have to be published at least five calendar days before the scheduled date for holding the meeting.

- If the measures imposed by public authorities prevent the meeting being held in the place and physical venue set out in the meeting notice and the power described above cannot be used:
  - if the meeting has been validly convened in that place and venue, it may resolve to continue holding the meeting on the same date in another place and venue within the same province, allowing a reasonable period for the attendees to travel there; and
  - if the meeting cannot be held, the holding of the meeting on a subsequent call may be announced with the same agenda and the same publicity requirements as the meeting that was not held, at least five days before the date scheduled for the meeting.

In this case, the managing body may resolve in the additional announcement to hold the meeting remotely only, namely, without physical attendance by shareholders or their representatives, provided the option is provided of participating in the meeting by any of these means: remote assistance, proxy granted to the meeting chairperson on distance media; and advance voting using distance media. Directors may attend the meeting, which will be deemed to be held at the registered office regardless of where the meeting chairperson is located, by audio or video conference call.

- It accepts the validity of board meetings held by video conference or conference call, even if this is not specifically allowed in the bylaws.
- The **expiry period for registry entries** is suspended and will resume at the end of the state of emergency.
- While the state of emergency is in place, **technically insolvent** debtors and debtors that have given notice to the courts of the pre-insolvency negotiations under article 5 bis of the Insolvency Law, even where the time period has ended, will not be required to petition for an insolvency order.

Until the end of two months following the end of the state of emergency, judges will not admit for consideration any petitions for necessary insolvency that have been filed in that state of emergency period or that will be filed in those two months. If a voluntary petition for an insolvency order has been filed, it will be admitted for consideration, on a priority basis, even if it has a later date.

- **Royal Decree-Law 11/2020 has clarified also various corporate/commercial contract matters** which up to now had given rise to debates regarding interpretation:
  - Meetings of managing bodies of companies, partnerships, associations, cooperatives and foundations are allowed to be held not only by video call but also by conference call provided that the secretaries of the bodies recognize the attendees, the attendees have the means, and minutes are sent by email in which all of this is specified.
  - The same system of holding meetings by video call or conference call is allowed to hold shareholders' meetings, partners' or members' assemblies (up to now it appeared to be limited to managing bodies).
  - It is established that resolutions in writing without a meeting may be adopted provided that the chairman so decides or this is requested by at least two of the members of the body in question.
  - In relation to the preparation of financial statements it is clarified that, although the period for doing so has been suspended until three months after the end of the state of emergency, financial statements can be validly prepared in that period, and the rules extending the period for auditing apply to financial statements so prepared.
  - The extension of the period for auditing financial statements to two months from the end of the state of alarm applies to cases of financial statements prepared before the beginning of the state of alarm.
  - In relation to the proposed distribution of income/allocation of loss of companies which have prepared their financial statements before the beginning of the state of emergency, it is clarified that the proposal contained in the notes to the financial statements may be modified and another proposal

may be submitted to the shareholders' meeting, attaching to the new proposal a statement of the auditor specifying that he would not have altered his opinion if he had known the new proposal beforehand. The proposed distribution of income/allocation of loss of companies whose shareholders' meeting was already called can be withdrawn and this item can be deferred to a subsequent shareholders' meeting with similar requirements to those indicated.

#### 17.5. Measures to control foreign investment

- The **regime for deregulation of direct foreign investment in Spain is suspended** (i.e., investments made by residents of countries outside of the European Union and of the European Free Trade Association where the investor comes to hold a stake equal to or greater than 10% of the share capital of the Spanish company, or where, as a result of the corporate transaction, act or legal transaction, they effectively participate in the management or control of that company), if:
  - the investment is made in certain sectors affecting public policy, public security and public health; or
  - the foreign investor is directly or indirectly controlled by the government, including the public agencies or armed forces, of a third country; has made investments or participated in activities in sectors affecting security, public policy and public health in another member state; or if an administrative or judicial proceeding has been brought against the foreign investor in another member state or in the state of origin or in a third state due for carrying on criminal or illegal activities.
- In order to carry out these investments, **authorization must be obtained** on the terms provided for in the applicable legislation (Law 19/2003, of July 4<sup>th</sup>, 2003).
- **Royal Decree-Law 11/2020 came to alter the above regime established by Royal Decree-Law 8/2020 in two ways:**
  - On the one hand, it is clarified that the suspension of the liberalization of direct foreign investments regime applies to any investments which are made by residents outside the European Union and the European Free Trade Association or by residents of countries of the European Union or of the European Free Trade Association the beneficial owners of which are residents of countries outside the European Union and the European Free Trade Association. Such beneficial ownership will be deemed to exist where the latter ultimately hold or control, directly or indirectly, a percentage exceeding 25% of the capital or voting rights of the investor, or when by other means they exercise direct or indirect control of the investor.
  - On the other hand, a simplified authorization process is permitted for foreign investments with respect to which (i) it is proven that there is an agreement between the parties or a binding offer in which the price, fixed or determinable, was established before March 18, 2020 or (ii) their amount is equal to or greater than 1 million euros and less than 5 million euros.

Provisionally and until the minimum amount is established by regulations, investment operations the amount of which is less than 1 million euros will be deemed to be exempt from the prior authorization obligation.

#### Useful links:

For updated and complete information please contact your Taxand team in Spain at <https://www.garrigues.com/>

## 18. SWEDEN (UPDATED 19.03.20)

The Swedish government has announced the implementation of legislative reforms to protect businesses from the effects of the Covid-19 virus<sup>12</sup>.

### 18.1. Tax measures

- The Tax Agency will have a possibility to grant companies a respite with payments of withheld wage tax, social security contributions and VAT.
- A respite may be granted for reporting periods (*i.e.* months) within the period January – September 2020.

A respite may be granted for up to **three reporting periods** and the respite is valid for **up to one year**.

For companies that report VAT on a quarterly basis, respite may only be granted for one reporting period.

- For granted respites, a **special respite-fee** will be levied.

The fee is **0.3% per month** of the respite amount and is to be paid when the respite ends.

Each application for a respite will be judged by its own merits.

All these proposals should enter into force on April 7<sup>th</sup>, 2020 with a **retroactive effect from January 1<sup>st</sup>, 2020**.

The Tax Agency has also published a statement on March 17<sup>th</sup>, 2020 **regarding the possibility for respite with payments before the proposed changes enter into force**. This is regarding the possibility for respite with payments under the current legislation. As such:

- Respite with payments can be granted if the company has **temporary difficulties** making payment in time due to direct cause of the **coronavirus** ;
- Respite with payments of **withheld wage tax and VAT** are most often not granted according to the Tax Agency, since the company is expected to have that amount as liquid cash.

However, a respite may still be granted if the company proves that it had to use the money to pay for something it could not have anticipated in order to mitigate the consequences of the coronavirus.

Companies that chose to apply for a respite should be aware of the respite-fee, which will be due for payment when the respite ends.

The company would also have to pay interest at a rate of **1,25 %** (in addition to the respite-fee).

### 18.2. Mesures sociales

- **The State will increase its share of support** to employers whose employees temporarily reduce their working hours.

This proposal implies that the basis for State support will be increased in the period from March 16<sup>th</sup>, to December 31<sup>st</sup>, 2020.

This proposal should enter into force on April 7<sup>th</sup>, 2020 **with retroactive effect on March 16<sup>th</sup>, 2020**.

- The **requirement for a medical certificate** from the 7<sup>th</sup> day of a period of illness is temporarily set aside. This proposal is to enter into force April 7<sup>th</sup>, 2020, with retroactive effect as of March 13<sup>th</sup>, 2020.
- The following reliefs are also contemplated:

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<sup>12</sup> Ministry of Finance press release of March 16<sup>th</sup>, 2020, "Crisis package for Swedish businesses and jobs".

- The government assumes **full responsibility for sickness benefits** for the period from March 11<sup>th</sup> to May 31<sup>st</sup>, 2020;
- **Short-term temporary layoffs** will be possible as of March 16<sup>th</sup>, 2020.

### 18.3. Financial Measures

- The *Riksbank*, the Swedish central bank, has announced that it will lend up to SEK 500 billion (about € 45 billion) to companies through banks to secure the supply of credit.

*The Riksbank has also announced that it intends to buy securities for up to an additional SEK 300 billion (about € 26.6 billion).*

- The *Finansinspektionen* (the Swedish financial supervisory authority) announced that it was lowering the **counter-cyclical capital cushion** to zero in order to ensure the smooth functioning of the credit supply.
- The Government grants special credit guarantees to Swedish airlines of SEK 5 billion (€ 440 million) (of which SEK 1.5 billion - € 130 million - is earmarked for SAS).

#### Useful links:

- Government of Sweden's website: click [here](#).

*For updated information please contact your Taxand team in Sweden at <https://skeppsbronskatt.se/>*

## 19. SWITZERLAND (UPDATED 02.04.20)

In view of the huge economic uncertainties and acute liquidity crisis facing many businesses and individuals as a result of the global spread of COVID-19, the Swiss Federal Council on March 20, 2020 launched a comprehensive package of measures to cushion the financial fallout from the pandemic's extraordinary impact. The package totals CHF 40 billion and also contains immediate liquidity relief for the economy.

### 19.1. Tax measures

#### Deferred payment terms

- **Direct federal tax and cantonal/communal taxes**

The relief measures provide that no interest on arrears will accrue between March 1, 2020 and December 31, 2020 for late payments of the direct federal tax bills due in that period. This applies to individuals as well as legal entities.

As regards the cantonal/communal tax, some cantons have decided to temporarily waive any interest on arrears (such as the Canton of Aargau, Bern, Basel-Land, Geneva, Graubünden, Jura, Lucerne, Neuchâtel, Nidwalden, Schaffhausen, Schwyz, Solothurn, Ticino, Valais and Zug). Independently of any such measures, it is possible to apply for deferred payment terms or payment by installments for both the direct federal and the cantonal/communal taxes.

- **Withholding tax and stamp duties**

The temporary waiver of interest on arrears does not apply to the federal withholding tax and stamp duties. This is very unfortunate given the high rate of interest on arrears (5%) charged for these taxes.

- **Value-added tax (VAT)**

As regards the VAT, customs duties as well as special taxes and steering duties (tobacco, alcohol, beer, vehicle, fuel, and mineral tax), the interest rate on arrears has been set at 0% until December 31, 2020. However, taxpayers are still obligated to submit their tax statements within the statutory deadline.

In practice, this means that companies liable for VAT will benefit from interest-free bridging loans – provided that they achieve turnover.

#### Automatic deadline extension for tax returns

Various cantons have set automatic deadline extensions for tax returns. The situation in selected cantons is as follows:

- **For individuals**

- Aargau: deadline extension for employees until June 30, 2020; for self-employed persons until September 30, 2020
- Appenzell Ausserrhoden: deadline extension until May 31, 2020
- Bern: deadline extension until September 15, 2020
- Basel-Land: deadline extension for employees until June 30, 2020; for self-employed persons until September 30, 2020
- Basel-Stadt: deadline extension until May 31, 2020
- Fribourg: deadline extension until June 30, 2020
- Geneva: deadline extension until May 31, 2020
- Jura: deadline extension until July 31, 2020

- Lucerne: deadline extension for employees until May 31, 2020; for employees with tax representative and self-employed persons until August 31, 2020
  - Neuchâtel: deadline extension until June 30, 2020
  - Nidwalden: deadline extension until June 30, 2020
  - St. Gallen: deadline extension until May 31, 2020
  - Schaffhausen: deadline extension until June 30, 2020
  - Solothurn: deadline extension until July 31, 2020
  - Schwyz: deadline extension until May 31, 2020
  - Ticino: deadline extension until June 30, 2020
  - Valais: deadline extension until May 31, 2020
  - Zug: deadline extension until June 30, 2020
  - Zurich: deadline extension until May 31, 2020
- ***For legal entities***
    - Aargau: deadline extension until September 30, 2020
    - Bern: deadline extension until September 15, 2020
    - Basel-Land: deadline extension until September 30, 2020
    - Geneva: deadline extension until May 31, 2020
    - Jura: deadline extension until July 31, 2020
    - Lucerne: filing of the tax return within 8 months after the closing of the business year
    - Ticino: deadline extension until September 30, 2020
    - Zug: deadline extension until September 30, 2020
- ***Adjustment of tariffs correction for wage withholding tax***
    - Basel-Land: deadline extension until September 30, 2020
    - Geneva: deadline extension until May 31, 2020
    - Schwyz: deadline extension until May 31, 2020
    - Valais: deadline extension until May 31, 2020
    - Zug: deadline extension until June 30, 2020

### **Extended stay of deadlines in civil and administrative proceedings**

From March 21 to April 19, 2020, a general stay of deadlines applies to all federal and cantonal civil and administrative proceedings, provided that court holidays are usually factored into such proceedings. The regular stay of deadlines that usually applies to the Easter holiday has de facto been extended to April 19, 2020.

It needs to be noted, however, that this stay of deadlines does not apply to federal direct taxes (income and profit taxes). In the case of direct taxes of the cantons (income and profit taxes as well as wealth and capital taxes), it depends on whether a stay of deadlines over Easter exists under the respective cantonal procedural law. The Canton of Zurich follows the federal solution for cantonal and municipal taxes, meaning that the stay of deadlines under the COVID-19 Ordinance does not apply. Other cantons, however, grant a stay of deadlines over Easter, meaning that the extended stay of deadlines applies. In some cantons, this leads to different deadlines for direct federal tax and cantonal income tax. Taxpayers and their advisors must therefore be careful in the current environment in order not to miss any deadline for appeals.

## Availability of tax authorities

- **Federal Tax Administration**

The Federal Tax Administration continues its operations. However, it is not contactable to the usual degree and recommends communicating by e-mail.

- **Cantonal tax administrations**

The counters of the tax administration in most cantons are closed until further notice but they can be contacted by mail, e-mail, and telephone in most cases. The tax authority of the Canton of Ticino has suspended its operations until April 5, 2020. The same applies to the Canton of Vaud, although it is not known when operations will resume.

## 19.2. Economic measures

### Measures at federal level

- **Deferred payment terms for social security contributions**

Companies and self-employed people can apply for an interest-free deferment of the payment terms for their social security contributions. It is also possible to have the payments on account adjusted to the current economic situation.

- **Guaranteed COVID bridging loans**

To help SMEs (sole proprietorships, partnerships, legal entities) suffering from the COVID-19 fallout to obtain bridging loans from the banks, the Federal Council has launched a credit guarantee program of CHF 20 billion. Affected businesses get access to fast credit of up to 10% of their sales, but no more than CHF 20 million. The program provides that the banks pay out amounts of up to CHF 0.5 million immediately, which will be 100% guaranteed by the Swiss government. Loans exceeding this threshold are to be guaranteed by the Swiss government at 85% of the amount, subject to a brief examination by the banks. The respective implementation ordinance was adopted on March 25, 2020.

- **Temporary stay of enforcement in debt collection**

**From March 19 to (and including) April 4, 2020, a general stay of enforcement in debt collection applies. This means that debt collection proceedings are not possible at the moment, in the whole of Switzerland.**

- **Expansion and simplification of short-time work**

The conditions for the compensation of short-time work have been broadened and applying for it has become easier:

- **Compensation for a reduction in work is now also possible for:**
  - **staff in fixed-term employment and for people working for a temporary placement organization;**
  - **people in apprenticeships; and**

**employees who occupy a position comparable to that of an employer.**

- **The already shortened waiting period for short-time work compensation has been abolished. This means that employers no longer financially contribute to work-loss compensation.**
- **Employees no longer have to reduce the accrued overtime before they can benefit from short-time work compensation.**
- **Compensation for income loss of self-employed people and employees**

Self-employed people who suffer a loss of income because of official measures taken to contain the coronavirus outbreak (e.g. who are in quarantine on doctor's orders) can get compensation for loss of income if they are not already being compensated or covered by corresponding insurance.

Parents who have to stop working because they need to care for their children following the closure of schools are entitled to compensation. The right to compensation also exists where gainful work is suspended because of isolation imposed by a physician.

- **Further measures**

The aid package of the Federal Council also provides for immediate relief in the cultural domain, for support to sports organizations, tourism, and regional policy as well as for expanded flexibility in applying the Employment Act to hospitals and health clinics.

### 19.3. Cantonal measures (in selected cantons)

- **Canton of Aargau**

On March 20, 2020, the cantonal government of Aargau launched an aid package totaling CHF 0.5 billion. It is designed to extend immediate support to those companies and businesses particularly hard hit by the COVID-19 pandemic (SMEs; hospitality and tourism services; trade and commerce; cultural institutions; etc.). Implementation shall be coordinated with the measures adopted at federal level.

- **Canton of Basel-Land**

On 19 March 2020, the cantonal government and the cantonal bank of Basel-Land announced an aid package to soften the blows to the economy from the coronavirus crisis. It consists of credit guarantees totaling CHF 100 million plus rapid relief of CHF 85 million that the bank will extend to its clients.

- **Canton of Bern**

On March 20, 2020, the cantonal government of Bern adopted an emergency ordinance in support of the economy and society, parts of which became effective on March 21, 2020. The government thus laid the legal foundation for using a range of instruments to provide financial relief to the canton's health service providers, industrial SMEs, other commercial enterprises, and self-employed people.

- **Canton of Graubünden**

The canton of Graubünden has put together a coronavirus aid package worth CHF 80 million. Together with federal funds, half a billion Swiss francs are available to Graubünden companies. The money will be used to secure jobs and income.

- **Canton of Zurich**

On March 19, 2020, the cantonal government of Zurich released an aid package for immediate economic relief: CHF 425 million to guarantee bank loans to SMEs, CHF 15 million in rapid relief to self-employed people, and CHF 28 million for charitable organizations active in cultural, social, sport, and educational areas.

For updated information please contact your Taxand team in Switzerland at <https://www.taxpartner.ch/>

## 20. UNITED KINGDOM *(UPDATED 01.04.20)*

The British Government has been announcing updates to measurements to support business on a daily basis. HMRC has deployed numerous tax officers to the HMRC Covid 19 helpline to deal with requests for help and tax deferrals from businesses.

### 20.1. UK TAX MEASURES

- **VAT**

VAT payments due between 20 March 2020 and 30 June 2020 can be deferred on an optional basis. There is no requirement to apply. No interest and penalties will apply. The deferred VAT payment must be paid on or before 31 March 2021.

This applies to all UK VAT registrations (irrespective of location of the business). It does not apply to MOSS registrations.

If you normally pay by direct debit and wish to take advantage of the deferral, you need to cancel the direct debt.

VAT returns must be filed as normal (even if the payment is not made). VAT payments due after 30 June 2020 (first possible payment being 7<sup>th</sup> July 2020 depending on VAT return periods) must be paid (don't forget to set up your direct debit again).

- ***Additional Direct Tax, Payroll taxes and VAT deferrals***

If the VAT deferral offered above is not sufficient and if the business needs additional time to pay all taxes, HMRC has extended its "Time to Pay" helpline. Businesses can request deferrals for VAT (outside the above period), payroll taxes and direct tax. These would normally be repaid in installments. Ordinarily penalties do not apply if this is agreed before the debt is due. For large and long-term payment plans HMRC may require information regarding cashflow and business viability. As the crisis progresses many employers will need to have a more structured payment plan agreed with HMRC over a longer period of time which will need to be carefully managed.

- ***Postponement of IR35 in the private sector***

The government announced on March 17<sup>th</sup> that the reform to the off-payroll working rules (commonly known as IR35) - that would have applied for people contracting their services to large or medium-sized organisations outside the public sector - will be delayed for one year from April 6<sup>th</sup>, 2020 until April 6<sup>th</sup>, 2021.

- **Direct tax measures**

Currently there are few if any direct tax measures. However, businesses can take a number of sensible measures to improve cashflow:

- Make prudent assumptions when forecasting any quarterly tax payments on account.
- Prioritise claims for repayment of tax wherever possible and applicable.

### 20.2. UK SOCIAL MEASURES

- ***Coronavirus Job Retention Scheme ('CJRS')***

The CJRS is available to all UK employers to enable them to assess support to pay part of their employees' salaries if those employees would otherwise be made redundant as a result of this crisis. The scheme is available from 1 March 2020.

To access the scheme, Employers must take two steps:

- Designate affected employees as 'furloughed workers' and notify their employees of this change which is still subject to normal employment law legislation;

- Submit information to HMRC about the employees that have been furloughed through a new HMRC portal.

HMRC will reimburse up to 80% of the furloughed employees' wage costs (which should exclude fees, commission and bonuses), up to a limit of £2,500 per month, plus the employer's national insurance and minimum auto enrolment employer pension contributions). The reimbursed amount will be subject to employment taxes (PAYE and National Insurance Contributions – both employers and employees) in the normal way.

In practical terms, employers should be identifying and writing to employees to whom furlough may be offered, along with any other redundancy, enforced paid annual leave or reduced hours working arrangements. For those employees that are furloughed, either compulsorily or voluntarily, they should be notified, and the date from which this will be effective (it can be backdated to 1 March for those employees who have already been stood down or let go).

- **Support for businesses paying sick pay**

Legislation is being brought forward to enable businesses with less than 250 employees to be able to claim a refund of 2 weeks Statutory Sick Pay ('SSP') per employee who has been off sick due to Covid-19. Employees will need to maintain records of staff absences and payment of SSP, but employees will not be required to provide a letter from their doctor (as is normal practice) confirming their illness.

- **Measures for self-employed individuals**

On 26 March 2020, the Chancellor announced a scheme that will see those who are self-employed receiving up to 80% or £2,500 a month cash grant for those earning up to £50,000 per year. This will be based on net profit after taxation. Unlike employees who are furloughed (as set out above), the self-employed can keep working.

The grant will be available in June 2020 at the earliest but will apply from 1 March 2020. Details of the application process are now available on the UK government website.

## 20.3. UK FINANCIAL MEASURES

- **Reduction in the Bank of England Base rate**

The Bank of England announced on March 19<sup>th</sup> that it has reduced its lending rate to a historic low of 0.1%. That rate is still in effect as of 26 March 2020.

Furthermore, it has also said that it will buy £ 200 billion (about € 215 billion) more UK assets, restarting its quantitative easing policy.

- **COVID-19 Corporate Financing Facility**

The Bank of England will buy short term debt from large companies. This will support companies which are fundamentally strong, but have been affected by a short-term funding squeeze, enabling them to continue financing their short-term liabilities. It will also support corporate finance markets overall and ease the supply of credit to all firms. The key challenge for those UK businesses wishing to access the facilities will be demonstrating they were in 'sound financial health' prior to COVID-19 (generally by showing an investment grade credit rating, or equivalent, with one of the main ratings agencies).

Additionally, there is the practical challenge for businesses of issuing commercial paper (unsecured, short-term debt instruments) if they have not done so before.

Alongside the Budget, the government has published information about the support available to individuals and businesses whose finances are affected by COVID-19. This information, which will be regularly updated as the situation develops, can be found here.

- **Government Grants for certain businesses include:**

- One-off grant of £ 10,000 (about € 11,000) to business that pay little or no business rates
- Additional grant of £ 25,000 (about € 27,000) to retail, hospitality and leisure businesses

This measure applies to businesses operating from smaller premises, with a rateable value between £ 15,000 and £ 51,000 (about € 16,000 to € 55,000).

- **Coronavirus Business Interruption Loan Scheme**

The Government will provide, through the British Business Bank, free of charge to SMEs an 80% guarantee on each loan for borrowings up to £ 5 million (about € 5.5 million) and for up to 6 years.

The government will also make a Business Interruption Payment to cover the first 12 months of interest payments and any lender-levied fees, so smaller businesses will benefit from no upfront costs and lower initial repayments. The government will provide lenders with a guarantee of 80% on each loan (subject to pre-lender cap on claims) to give lenders further confidence in continuing to provide finance to SMEs. The scheme will be delivered through commercial lenders, backed by the government-owned British Business Bank. There are 40 accredited lenders able to offer the scheme, including all the major banks.

- **Business rates discount for certain businesses**

A business rates discount of 100% (formerly 50%) will apply for retail, hospitality and leisure businesses, as well as nurseries, in England for the 2020 to 2021 tax year.

- **Further Measures**

The government and the Bank of England are currently announcing measures on an almost daily basis.

- **Protection from eviction for commercial tenants –**

Commercial tenants who cannot pay their rent because of COVID-19 will be protected from eviction. These measures will mean no business will automatically forfeit their lease and be forced out of their premises if they miss a payment up until 30 June. There is the option for the government to extend this period if needed. This is not a rental holiday. All commercial tenants will still be liable for the rent. Commercial tenants are protected from eviction if they are unable to pay rent.

- **Commercial insurance –**

The government has clarified that for those businesses with insurance policies that cover government ordered closures and pandemics should be able to claim under their policies. However, since all policies do differ, businesses are recommended to check the terms and conditions.

- **Statutory account filing extension –**

The Financial Conduct Authority, Financial Reporting Council and Prudential Regulation Authority have granted companies listed on the UK stock exchange an extension of 2 months in order to file their statutory accounts.

Companies House in the UK has also issued guidance to permit all companies to apply for a three month extension to their filing deadline. Although the latter does require an application, it has been made clear that the application will be both fast tracked and automatically granted if the reason for requiring the extension is COVID-19 related.

- **Guidance to businesses and auditors preparing financial statements –**

The Financial Conduct Authority, Financial Reporting Council and Prudential Regulation Authority have provided guidance to companies to make key forward looking judgements as consistent as possible. Guidance has also been provided to auditors as to practical ways that they can seek to

obtain audit evidence in order to support audit opinions given the current obstacles in order to obtain information.

- **Guidance to businesses**

The Business Secretary has also announced he will make changes to enable UK companies undergoing a rescue or restructure process to continue trading, giving them breathing space that could help them avoid insolvency. This will also include enabling companies to continue buying much-needed supplies, such as energy, raw materials or broadband, while attempting a rescue, and temporarily suspending wrongful trading provisions retrospectively from 1 March 2020 for three months for company directors so they can keep their businesses going without the threat of personal liability.

**Useful links:**

- Government of the UK's website: click [here](#).

For updated information please contact your Taxand team in the United Kingdom at <https://www.alvarezandmarsal.com/expertise/uk-tax>

## 21. UNITED STATES (UPDATED 02.04.20)

As a first step, on March 6th, 2020, the U.S. government has approved \$8.3 billion in emergency funding for federal agencies to respond to the coronavirus outbreak (Phase I).

On March 18th, 2020 an additional emergency funding with an estimated cost of \$105 billion for federal agencies and small businesses was approved in response to the coronavirus outbreak (Phase II).

On March 27, 2018 President Trump signed the COVID-19 Bill (Phase III) into law. The COVID-19 Bill includes a \$2.2 trillion emergency relief package intended to increase liquidity, assist small businesses and individuals, support the different states and to provide technical corrections to the Tax Cuts and Jobs Act (TCJA).

### 21.1. Social Measures

- **Emergency Family and Medical Leave Expansion Act (Phase II):** Provides employees of employers with fewer than 500 employees (subject to certain aggregation rules) and government employers (excluding certain health care providers and emergency responders) who have been on the job for at least 30 days, 12 additional weeks of job-protected FMLA leave for those who are unable to work or telework due to a need to care for a child whose school is closed. Note that employers with fewer than 50 employees may request a waiver from this requirement.
- **Emergency Paid Sick Leave Act (Phase II):** Provides employees of employers with fewer than 500 employees (subject to certain aggregation rules) and government employers (excluding certain health care providers and emergency responders) with 80 hours (10 days) of paid sick time at the employee's full regular rate of pay (subject to caps of \$511/day) if leave is due to employee quarantine/isolation – cap reduced to \$200/day if the leave is due to caring for others. Employers with less than 50 employees may be excluded by subsequent regulations by the Department of Labor.
- **Emergency Unemployment Insurance Stabilization and Access Act of 2020 (Phase II):** Provides unemployment assistance to states including \$1 billion in emergency grants for unemployment insurance, access to interest-free loans for payment of UI benefits, federal funding for states that experience a 10 percent increase in unemployment rate and suspend financial penalty for states that waive the one week benefits waiting period.
- **Unemployment Assistance (Phase III):** Establishes a temporary Pandemic Unemployment Assistance to provide payment to those not traditionally eligible for unemployment benefits and who are unable to work as a direct result of the coronavirus public health emergency.
- **Health Provisions (Phase II)**
  - Provides the following COVID-19 related health provisions at no cost to consumer: diagnostic testing and the cost of medical visits in order to receive testing, certain personal respiratory protective devices.
  - Temporary increase to states' federal medical assistance percentage (FMAP).

### 21.2. Administrative Measures

- **Health Care System Package to Combat Coronavirus (Phase II):** \$100 billion for hospitals, \$16 billion for critical medical supplies, \$11 billion for vaccines, therapeutics, diagnostics, \$4.3 billion for the Centers for Disease, \$45 billion for the FEMA Disaster Relief Fund, \$1 billion for the Defense Production Act, \$1.32 billion for community health centers, \$3.5 billion for child care block grants to maintain critical child care services for first responders and health care workers.
- **Department of Health and Human Services (HHS) (Phase I):** \$6.5 billion allocated to various HHS programs to prevent, prepare for, and respond to coronavirus, domestically or internationally. Allows the HHS Secretary to waive certain Medicare telehealth restrictions during the coronavirus public health emergency.

- **Department of State, U.S. Agency for International Development (USAID) & Bilateral Economic Assistance (Phase I):** \$1.25 billion in appropriations to (1) the Department of State for the Administration of Foreign Affairs, and (2) the U.S. Agency for International Development for the Office of Inspector General as well as provisions for Bilateral Economic Assistance.
- **Supplemental Appropriations to Departments of Agriculture, Defense, Treasury, HHS (Phase II)**
  - **Department of Agriculture** – \$500 million for The Special Supplemental Nutrition Program for Women Infants and Children (WIC) and \$400 million for the Commodity Assistance Program for emergency food assistance.
  - **Department of Defense** – \$82 million for defense health program.
  - **Department of Treasury** – \$15 million to Internal Revenue Services (IRS) for taxpayer services.
  - **HHS** – \$64 million for Indian health services, \$250 million for aging and disability services programs, and \$1 million for PHSS Emergency Fund.
  - **Department of Veterans Affairs** – \$30 million for medical services and \$30 million for medical community care.

### 21.3. Financial Measures

- **Small Businesses Loans**
  - **Economic Injury Disaster Loans Expanded (HR 6074):** Authorized the Small Business Administration (SBA) to provide an additional \$7 billion in Economic Injury Disaster Loans (EIDL) for small businesses.
  - **Additional Small Business Loan Aid Appropriated (HR 748):** The CARES Act (HR 748) includes an additional \$350 billion in small business assistance through the SBA 7(a) program and \$500 billion in funding for the Treasury's Exchange Stabilization Fund and expanded Federal Reserve lending facilities.
  - **Qualified Small Business:** Any business concern, private non-profit organization, or public non-profit organization which employs not more than 500 employees, subject to certain aggregation rules, shall be eligible to receive a loan made under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), in addition to small business concerns.
  - **Maximum Loan Amount:** \$10M through 12/31/2020. A formula shall be used to estimate the loan amount necessary to cover costs that the loans may be used to satisfy.
  - **Usage of Loan:** Payroll support, including paid sick, medical, or family leave, and costs related to the continuation of group health care benefits during those periods of leave; employee salaries; mortgage payments; rent (including rent under a lease agreement); utilities; and any other debt obligations that were incurred before the covered period.
    - **LIMITATION** – A borrower that receives assistance under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) related to COVID-19 for purposes of paying payroll and providing payroll support shall not be eligible for a loan described in the Qualified Small Business section (above) for the same purpose.
- **Targeted Funding to Stabilize Severely Distressed Sectors (Phase III)**
  - \$25 billion in loans to passenger airlines, \$4 billion to cargo air carriers, and \$17 billion to businesses critical to maintaining national security; places restrictions on executive compensation and stock buyback for loan recipients.
  - \$454 billion to be invested in Federal Reserve facilities to provide liquidity to banks for lending to states, municipalities, and businesses; places restrictions on executive compensation and stock buyback for loan recipients.

- \$10 billion for airports and \$25 billion for public transit operators.
- Permits forbearance on mortgage payments and places moratorium on foreclosures for homeowners with Federally backed loans.
- \$50 million to help small and medium sized manufacturers.
- \$13.5 billion for elementary and secondary schools and \$14.25 billion for higher education relief.
- Establishes a \$150 billion Coronavirus Relief Fund to assist States, Territories, and Tribal governments.
- Suspension of all payments due for loans made under part D of title IV of the Higher Education Act of 1965 for three months. No interest will accrue during suspension period.

#### 21.4. Tax measures

- ***Employer Tax Credits (Phase II)***

- The Families First Coronavirus Response Act (HR 6201) required small businesses to expand paid sick-leave and family leave (FMLA Leave) to individuals affected by the virus. Employers are eligible for a payroll tax credit equal to 100% of the sick-leave and FMLA Leave paid by the employer with respect to such quarter. The legislation affects businesses smaller than 500 employees (subject to certain aggregation rules), but businesses with 50 employees or fewer may be exempt.

- ***Expanded Unemployment Insurance (UI), Tax Credits, and Retirement Plan Provisions (Phase III)***

- Provides an immediate \$1,200 rebate, plus \$500 per child, to each individual (\$2,400 per couple) with adjusted gross incomes of \$75,000 (\$150,000 per couple) or less; individuals earning up to \$99,000 (\$198,000 per couple) will receive a proportionally reduced rebate.
- Incentivizes short-time compensation/work sharing programs to deter layoffs.
- Refunds 50% of qualified wages paid to employees by employers whose operations were severely disrupted by COVID-19; the credit is limited to the first \$10,000 in compensation per employee for a maximum credit of \$5,000 per employee. Note that there are different rules for calculating the available credit for employers with greater than 100 employees and employers with less than 100 employees.
- Loans up to \$100,000 from qualified plans may be taken for Coronavirus-related purposes. The loan repayment period is extended by one year.
- 10 percent early withdrawal penalty waived for coronavirus-related retirement plan withdrawals up to \$100,000. Income attributable to these distributions subject to tax over three years and the taxpayer can recontribute those funds within the three period.
- Minimum distribution rules waived for certain defined contribution plans and IRAs.

- ***Delayed Payment of Employer Payroll Taxes (Phase III)***

- Employers (except those with indebtedness forgiven under the Act) and self-employed individuals can defer the employer portion of Social Security taxes due from the Act's enactment through the end of 2020 until the following future dates:
  - 50% deferred until December 31, 2021; and
  - 50% deferred until December 31, 2022.
- An employer is not eligible for deferral if it receives a Small Business Act loan under the Paycheck Protection Program and has any amount of such loan forgiven pursuant to Section 1106 of the Keeping American Workers Paid and Employed Act or pursuant to the United States Treasury program management authority.

- **Business Tax Provisions (Phase III)**

- **Net Operating Loss**

- Corporations can carry back net operating losses from 2018, 2019, and 2020 for five taxable years.
- The 80% of taxable income limitation on the use of NOLs was removed for 2018, 2019, and 2020.
- Rules regarding loss limitations for pass-through businesses and sole proprietors are relaxed.

- **Limitation on Interest Expense Deduction**

- For taxable years beginning in 2019 or 2020, taxpayers other than partnerships can calculate the amount of interest they can deduct based on 50% of their adjusted taxable income (instead of 30%), unless they elect not to, and
- For taxable years beginning in 2020, taxpayers can generally elect to use their 2019 adjusted taxable income to calculate the interest deduction limit.
- For partnerships, for 2019, partners that were allocated excess business interest expense from a partnership (business interest expense that exceeded the partnership's section 163(j) limitation) can deduct 50% of such amount in 2020 without any limitation, unless they elect not to do so. This election is made at the partner level.
- For partnerships, for 2020, A partnership's section 163(j) limitation is calculated based on 50% of ATI, instead of 30%, unless the partnership makes an election not to. A partnership can elect to use its 2019 ATI in place of its actual 2020 ATI (prorated if the 2020 taxable year is a short taxable year) in place of its actual 2020 ATI. Both elections are made at the partnership level.

- **Alternative Minimum Tax (AMT) Refundable Credit**

- The time for corporations to claim a refundable credit for past alternative minimum taxes paid is accelerated.

- **Retail Glitch Correction**

- Qualified improvement property is eligible for accelerated depreciation deductions under section 168(k).

- **Tax Deadlines (Phase III)**

- Three month delay of filing deadlines for 2019 U.S. Federal income tax returns that are typically due by April 15, 2020 (until July 15, 2020) for calendar year taxpayers. This also extends the deadline for making Federal income tax payments for the 2019 tax year that are typically due by April 15, 2020 (until July 15, 2020) for calendar year taxpayers. Note that not all taxes and filings are eligible for the deferral of the due date (e.g.withholding taxes).
- U.S. Federal estimated tax payments for Q1 2020, that are typically due by April 15 (for calendar year taxpayers), are not due until July 15. As of today, Q2 payments for 2020 continue to be due on June 15, 2020, for calendar year taxpayers.
- Some states have pushed back the deadline for filing state tax returns and making associated income tax payments, but not all states have done so.

**Useful links:**

- White House's website: click [here](#).
- Internal Revenue Service's website: click [here](#).

For updated information please contact your Taxand team in the United States at <https://www.alvarezandmarsal.com/>