KPMG Meijburg & Co
Tax & Legal

**Additional tax measures as a result of corona crisis announced**

In March and earlier in April the government announced various tax measures related to the corona crisis (see, for example, our memorandum dated April 17, 2020). By letter sent to the Lower House of Parliament and a press release dated April 24, 2020, the Deputy Minister of Finance announced six new tax measures. These are intended to mainly support businesses, including the self-employed.

The measures are still being worked out in detail. Measures that require a legislative basis will as much as possible be included in the 2021 Tax Plan as a separate bill. In anticipation of this, the measures will, where necessary, be elaborated on in a policy statement granting approvals. Measures that do not require a legislative basis will also be elaborated on in a policy statement as soon as possible.

The six announced measures are discussed separately below.

**1. A reduction of the normative salary in the event of a decline in turnover**

Normally holders of a substantial interest must, in any case, pay tax on an appropriate salary as determined in legislation, i.e. the 'normative salary'. In light of the large loss of turnover that is being incurred in some sectors due to the corona crisis, the government is allowing substantial interest holders to assume a lower salary in 2020 that is in proportion to the decline in turnover. With regard to the decline in turnover, the same period in the year 2020 will be compared to the same period in 2019. This measure will be comparable to a similar measure taken during the credit crisis in 2009.

**2. Measure for self-employed persons: easing of hours criterion**

Entrepreneurs that are personal income taxpayers are only entitled to certain types of entrepreneur allowances, such as the self-employed persons' deduction, if they meet the 'hours criterion'. The 'hours criterion' requires entrepreneurs to spend at least 1225 hours per year on their business. To prevent entrepreneurs losing their entitlement to a deduction as a result of the corona crisis, during the period March 1, 2020 through May 31, 2020 the Dutch tax authorities will assume that these entrepreneurs spent at least 24 hours per week on their business. This applies even if as a result of the corona crisis they didn't actually spend these hours on their business. The number of hours (24) was chosen because this is the weekly average of 1225 hours on a calendar year basis. This is not an adequate solution for seasonal workers if their activities normally peak in this period. The government will introduce additional arrangements for this group. During this period they will be regarded as having spent the number of hours that they normally spent during this period in other years. It seems that the latter will take place using an estimate based on the accounts and records in 2019.

## 3. The work-related costs rules

By means of the work-related costs rules, employers can give employees untaxed reimbursements and provisions. The fixed exemption that employers have for these untaxed reimbursements will be increased in 2020 from 1.7% to 3% for the first EUR 400,000 of the payroll for each employer; this will be a one-off and temporary increase. This means that employers who have the financial room for this can additionally recompense their employees during these difficult times.

## 4. Corona tax reserve for corporate income tax purposes

Businesses that are corporate income taxpayers can set off a loss against the profit from the preceding year (one year carry-back). This means that these businesses can recover, or will not have to pay, (part of) the corporate income tax that they have already paid or still have to pay for the year 2019 if they incur a loss in 2020. Normally a loss incurred in the year 2020 can only be set off against the profit for 2019 after the corporate income tax return for 2020 has been filed; this will only be filed at the beginning of 2021 or later. In connection with the corona crisis, the government considers it desirable for businesses to have access to cash sooner. The government will therefore make it possible for the expected loss for the year 2020 incurred as a result of the corona crisis to be set off as a corona tax reserve against the profit for the year 2019.

The maximum corona tax reserve is the tax profit for 2019 without taking account of this reserve and must not exceed the loss expected to be incurred in 2020 as a result of the corona crisis. Creating this reserve means that a refund of the corporate income tax paid and to be paid for 2019 can be requested, which will be refunded by means of an additional provisional corporate tax assessment for 2019.

The government has explicitly stated that a legislative amendment for this measure is being prepared. In anticipation of this, a policy statement will be published as soon as possible, clarifying what businesses must do and which conditions apply in order to claim the corona tax reserve.

## 5. Postponement of effective date of bill on excessive lending from the own company

In September 2018 the government announced the bill on the Excessive lending from the own company Act, which is intended to take effect as of 2022 (see our memorandum of March 5, 2019). In short, this bill makes it possible to tax debts in excess of EUR 500,000 (excluding home acquisition debt) that director-major shareholders owe to their own companies. As a result of the corona crisis, it may be more difficult for director-major shareholders to repay their debts to the company before this legislation takes effect. In order to accommodate director-major shareholders in this, the government wants to postpone the effective date of this bill by one year, thus until January 1, 2023. This means that director-major shareholders will have until December 31, 2023 (first reference date) to repay these debts. This change will be included in the bill that will shortly be sent to the Lower House of Parliament.

## 6. Mortgage payment holiday

Lenders consider it desirable to offer clients who are unable to meet their repayment commitments as a result of the corona crisis a mortgage payment holiday of, in principle, six months. During this period, clients will either not have to pay any interest on their mortgage or make any mortgage repayments or pay less interest and make lower mortgage repayments. However, the interest and repayments will have to be paid at a later date.

For mortgages taken out on or after January 1, 2013, a mortgage interest deduction can, in principle, only be claimed if the mortgage is repaid in a maximum of 360 months under at least an annuity repayment schedule. If this schedule is not complied with, legal rules establish how and within which period repayment arrears must be paid. In order to make it possible to repay these arrears in another manner in certain cases, the following two approvals will be included in a policy statement:

i. The first approval involves agreeing a new annuity schedule on the basis of which the arrears can be spread over the remaining term of the maximum term of 360 months. This schedule can or must be agreed as quickly as possible after the end of the deferral period.
ii. The second approval involves splitting the remaining loan. The current annuity schedule would continue to apply to the remaining principal, without the repayment arrears being taken into account. A separate loan with its own annuity schedule would be taken out for the repayment arrears, with the maximum term being the same as the remaining term of the original principal. The term may thus also be shorter, depending on the client’s ability to pay.

The policy statement will apply to taxpayers who notify or notified their lender between March 12 and June 30, 2020 and agree a mortgage payment holiday of a maximum of six months. This mortgage payment holiday must take effect no later than July 1, 2020. Use can also be made of the policy statement arrangement for mortgage payment holidays that have been agreed since March 12 and may already be partly implemented. However this is subject to additional conditions. What is still being looked into is how and under which conditions the measure could apply to loans for which the tax repayment requirement applies and which were borrowed from a party other than a designated party that is obliged to keep records, such as a loan from the own company or from a family member.

As stated above, not only the missed repayments, but also the deferred interest, will have to be repaid. The deferred interest is deductible according to ordinary tax rules.

Should you have any questions about the above, Meijburg's advisors would be pleased to use their expertise to help you minimize the tax and financial consequences of the corona crisis. We will of course keep you informed of any additional tax measures.

Meijburg & Co
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