

Corona measures focusing on payroll taxes and social insurance

By letter dated March 17, 2020 sent to the Lower House of Parliament, the government announced a number of important measures. The government wishes to use these bridging measures to support employers and self-employed persons during the period in which the economic consequences of the coronavirus are felt. In this overview we inform you about the specific measures that could be relevant for you as an employer. This concerns the measures in their current form (April 1, 2020). This document will be regularly updated and published on our website.

For the measures for self-employed persons, we refer to [our website](#).



Temporary easing of determination of normative salary

The website of the Forum for Fiscal Service Providers (*Forum voor Fiscaal Dienstverleners*) has published an approval from the Dutch tax authorities, which states that a director-major shareholder ('DMS') may temporarily receive a lower monthly salary in 2020. The normative salary for 2020 must be determined by the end of the year and included in the payroll tax and social security contributions return. The approval applies to all situations in which the corona crisis has impacted the turnover and liquidity of the DMS' company.

Salary that the director-major shareholder has already received for past periods in 2020 cannot be reduced with retroactive effect. The salary can only be reduced for the remaining months of 2020.

You do not have to request approval from the Dutch tax authorities to take advantage of this temporary measure. Nor does any reduction have to be agreed in advance with the Dutch tax authorities. If you wish to use this temporary measure, you must report a lower monthly salary for the director-major shareholder in the payroll tax and social security contributions returns.

If the salary for 2020 appears to be too low (i.e. not the usual salary), the difference must be reported as salary. Payroll tax and social security contributions must be withheld and remitted on the difference.

The Dutch tax authorities have not yet published this concession via the official channels.



Labor Market (Improved Equilibrium) Act

The Minister of Social Affairs and Employment is preparing two amendments related to the Labor Market (Improved Equilibrium) Act (*Wet arbeidsmarkt in balans*).

1. No adjustment from lower unemployment insurance contribution to higher unemployment insurance contribution for overtime as a result of the outbreak of the corona virus.
 - a. Employers that apply the lower unemployment insurance contribution to employees with open-ended employment contracts must apply the higher unemployment insurance contribution with retroactive effect if, during a calendar year, 30% more hours are paid than contractually agreed.
 - b. The extra overtime that is now occurring in certain sectors (such as healthcare) as a result of the coronavirus could cause an unintended adjustment from the lower contribution to the higher contribution for the year 2020.
 - c. We are still awaiting further details about this measure and the sectors to which it will apply.
2. WAB leniency rules extended until July 1, 2020
 - a. The lower unemployment insurance contribution can only be applied if open-ended employment contracts are laid down in writing and included in the payroll administration. This must be done by April 1, 2020 at the latest.
 - b. This deadline has been moved up to July 1, 2020 in connection with the present corona crisis.

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Reduced working hours scheme becomes Temporary emergency bridging measure to retain jobs

On March 31, 2020 the conditions for the Temporary emergency bridging measure to retain jobs (*Tijdelijke noodmaatregel overbrugging voor behoud van werkgelegenheid*; NOW) were announced. The NOW will temporarily replace the current reduced working hours scheme (*werktijdverkortingsregeling*). On April 3 some areas of the NOW scheme were amended.

To calculate the amount of the subsidy and further details about this, we refer to our [general memorandum](#) about the NOW.

Main features of the scheme

- Every employer that expects at least a 20% decline in turnover due to exceptional circumstances (such as the corona crisis) in the reference period of three consecutive months (between March 1 and July 31, 2020) can apply for compensation of their payroll costs.
- The decline in turnover is based on the group's net turnover in the reference period compared to the average quarterly turnover in 2019.
- The compensation is in relation to the decline in turnover and amounts to a maximum of 90% of the payroll for employees with open-ended contracts and those with flexible contracts. The scheme works with advance payments, followed by a final settlement at a later date. Two separate applications have to be filed for this. The amount of the advance payment is 80% of the calculated subsidy.
- The final subsidy amount is partly calculated differently to the advance payment. This means that in most cases the final amount will differ from the advance payment. Employers may therefore have to repay subsidy or could receive additional subsidy.
- Subsidy applications can be filed as of April 14, 2020, but the Dutch Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen*; UWV) opened online applications on Monday, April 6. The UWV also hopes to make the advance payments within two to four weeks of receipt of the application.

Important points for consideration

- The advance payment application can be filed until May 31, 2020.
- The final determination of the subsidy (*subsidievaststelling*) must be applied for within 24 weeks of the end of the period over which the decline in turnover was calculated. The Minister will determine the subsidy within 52 weeks after the application for the determination of the final subsidy has been filed.
- Although the decline in turnover is calculated at the group level for civil-law purposes, applications must be filed for each employer and for each withholding tax sub-number.
- The scheme is also available to foreign legal entities and companies paying salary that is subject to Dutch national insurance contributions (*loon voor de sociale verzekeringen* (SV *loon*); hereinafter SV salary).
- For the purposes of this subsidy scheme, payroll is defined as the SV salary of all the employer's employees (with open-ended and temporary contracts) (*SV-loonsom*; hereinafter: SV payroll). The salary of uninsured employees falls outside the scope of the scheme, for example uninsured director-major shareholders.
- The maximum salary per employee is EUR 9,538 (twice the maximum daily salary per month that is subject to unemployment insurance contributions).
- The amount of the final subsidy can be significantly less than the advance payment subsidy due to two measures.
 1. The final payroll for the period March through May 2020 must be compared to three times the payroll for the first tax return period for 2020. If this actual payroll is lower, the amount of the final subsidy will be reduced compared to the advance payment.
 2. If applications for redundancy on economic grounds are filed with the UWV after March 17 (which are not withdrawn), the final subsidy will be reduced by the salaries of the employees for whom redundancy was applied for. As a penalty for applying for redundancy, the payroll will be set at 150%.
- Applications already filed under the reduced working hours scheme will be regarded as NOW applications.

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Obligations

The following (non-exhaustive) obligations are especially relevant for the granting of the subsidy:

- The employer undertakes to not apply for redundancy on economic grounds after March 17, 2020. If it nevertheless does so, the subsidy provision will not be canceled, but the subsidy will be reduced.
- The employer undertakes to keep the payroll as much possible at the same level. If this doesn't happen, then the subsidy will be reduced.
- The employer is obliged to notify the Staff Council (*ondernemingsraad*) or a similar representative body or the employees about the subsidy application.
- The employer is obliged to provide a final statement of the decline in turnover, accompanied by an auditor's report. It is still unclear whether this obligation applies in all cases.
- The employer undertakes to comply with all kinds of administrative conditions, including the condition to immediately notify the Minister if there is a significant change in circumstances.



Social security within the European Union

Regulation (EC) No 883/2004 coordinates social security within the European Union. This Regulation designates the EU Member State whose social security legislation applies in situations where employees work outside the Member State where they live and/or who work in more than one EU Member State at the same time. Many of these employees will have an A1 certificate.

The corona crisis may affect these designation rules, because employees have to work from home during the corona crisis. This changes their normal working pattern, which means that the social security may shift from one country to another country. Employers may face additional administrative expenses because of this.

- The European Commission (EC) recently commented on the national measures that Member States have taken (such as the Dutch Social Insurance Bank (*Sociale Verzekeringsbank*)), noting that Member States cannot unilaterally set aside the effects of Regulation 883/2004. However, in order to coordinate the use of the Regulation, the EC is encouraging Member States to conclude special agreements with one another, as otherwise employees could be confronted with a change in their social security position. This can take place by means of Article 16 of Regulation 883/2004. According to the EC, without such an 'Article 16 statement' the main rules of the regular 'posting' and 'multi-state' provisions will apply in full.
- The Dutch Social Insurance Bank (*Sociale Verzekeringsbank*; SVB) has indicated that if, when living and/or working in the EU, EEA or Switzerland, a different working pattern arises as a result of the corona crisis, this will not affect the social security position that prevailed before the corona crisis. No further action is required at this stage. If the 'working from home measures' are extended, the SVB may announce other implications of this.

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Special deferral of tax payments

The government has announced measures for obtaining – upon request – a special deferral of payment for payroll tax and social security contributions assessments, personal income tax assessments, corporate income tax assessments and VAT assessments. This was recently expanded to cover the tax on games of chance, insurance premium tax, the landlord levy (*verhuurderheffing*), environmental taxes, excise duties, consumption tax on non-alcoholic drinks and similar taxes in the Dutch Caribbean.

- The request for a special deferral of payment will be granted after the assessment for which deferral is requested has been imposed (this concerns assessments received after March 19, 2020). As of April 1, requests can be made online.
- After this first request for a deferral of payment has been submitted, a deferral of payment will automatically be granted for all assessments and all taxes imposed until **June 19, 2020**. It is thus important to keep a record of when the deferral of payment for each assessment ends.
- Under the scheme in its present form, assessments that are received on or after June 19, 2020 fall outside the scope of this special three-month deferral of payment.
- After the first request for a deferral of payment has been submitted, you will receive a confirmation of receipt from the Dutch tax authorities. Upon receipt of the request, the Dutch tax authorities will immediately halt all tax collection measures in accordance with the above, and you will not have to pay any penalties for late payment of VAT and/or payroll tax and social security contributions.
- If you require a deferral of payment for longer than three months, you must request this. You may then be required to provide additional information and possibly a statement from an expert third party. The rules for this are not yet completely clear.
- An additional measure has been introduced for businesses with a **G account**. In addition to the normal possibility of partially releasing the G account in the case of surpluses, the Deputy Minister of Finance has also given approval for the G account to be released for the amount for which a special deferral of payment was obtained. Instructions for this will be placed on the website of the Dutch tax authorities.

Please note:

- Outstanding and pending assessments will, however, have to be paid at a later date. They will not be canceled.
- Your obligation to file tax returns is not suspended.
- It is worth checking whether a notification of inability to pay must also be submitted at the same time and promptly (within two weeks after the taxes should have been paid). Please contact your tax advisor about this.



Payment arrangements for pension contributions

On March 21, 2020 pension fund administrators agreed a temporary payment arrangement with employers that were facing acute liquidity problems as a result of the corona crisis. The Labor Foundation (*Stichting van de Arbeid*) and the umbrella organizations of pension fund administrators, the Pension Federation (*Pensioenfederatie*) and the Dutch Association of Insurers (*Verbond van Verzekeraars*) presented a number of measures which they indicated would not affect the pension entitlements of employees.

The measures may differ per sector and per employer and can be summarized as follows.

1. Individual employers with acute liquidity problems can apply to their pension fund, pension insurer or premium pension institution for a payment arrangement.
2. Payment deadlines may be extended for certain sectors and affected employers, if this is legally possible.
3. Pension fund administrators will maintain a less strict collection policy when collecting contributions.

Please note:

- For companies that must participate in an industry-wide pension fund, it is important that they report their inability to pay on time.

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Maritime crew remittance reduction and research & development remittance reduction

One of the conditions for applying the maritime crew remittance reduction is that the vessel on which the maritime crew works sails under the Dutch flag and is at sea (for a qualifying activity) most of the time (more than 50%), The 'most of the time' test is assessed per calendar month and the remittance reduction is calculated per pay period (usually a calendar month).

The research and development remittance reduction depends on a number of factors, including the number of hours that employees work on qualifying R&D projects within the company.

- With regard to the maritime crew remittance reduction, it is currently unclear what the consequences will be if a vessel is docked, i.e. not at sea or not in use as a result of the coronavirus. 'Idle time' is usually calculated on a pro rata basis, but even then it can have a negative outcome.
- It is very likely that during this 'corona period' there will be a temporary decline in the number of R&D hours used. If they are not used up at a later date, this could result in the R&D remittance reduction being curtailed.

We understand from the Royal Association of Netherlands Shipowners (*Koninklijke Vereniging van Nederlandse Reders*; KVNRR) that they have now raised this point with the Ministry. We would also like to point out that halting all work in the offshore sector may also have consequences for the foreign tax liability, as there are very specific deadlines for permanent establishments involving construction work or offshore permanent establishments.

R&D remittance reduction measures

If you received an R&D declaration in 2019 you normally have until March 31, 2020 to submit a notification. The Netherlands Enterprise Agency (*Rijksdienst voor Ondernemend Nederland*; RVO) has announced that it will be accommodating with this deadline. You now have until June 15, 2020 to submit the notification without the RVO regarding your notification as late or imposing a penalty.

WBSO applications whose first month is April 2020 normally have to be filed with the RVO by March 31, 2020. This deadline has been extended until Sunday, April 5, 2020.



Immigration

Governments in various countries have introduced tax and immigration measures. KPMG will publish a GMS Flash Alert if these measures are relevant to you. An overview of all GMS Flash Alerts about Corona can be found on the special '[landing page](#)'.

The relevant alerts are listed under the section 'Flash Alert Topic Pages COVID 19'. You can also opt for 'Flash Alerts by Country'.

Immigration

On March 17, 2020, the EU heads of government decided that travelers from outside the European Union will no longer be allowed to enter the Schengen area, unless it is absolutely necessary for them to do so. The entry ban will apply, in principle, for 30 days and may be extended if necessary.

Exceptions apply for necessary travel or for the supply of food and medicine. Travelers with a valid passport from the EU, the Schengen countries or with a valid Dutch residence permit, or who have a valid temporary residence visa (*machtiging tot voorlopig verblijf*; MVV visa) or a specific notification will also be allowed entry.

You can read more about this in our [News Alert](#).