

Deputy Minister releases policy statement with corona crisis tax measures

As you are aware, the economic consequences of the corona crisis are cause for the government to take both economic and tax measures. In our previous memoranda of [March 18, 2020](#), [March 20, 2020](#) and [April 3, 2020](#) we informed you, in particular, about the tax measures. By letter dated April 14, 2020 sent to the Lower House of Parliament, the Deputy Minister of Finance released a policy statement that further elaborates on the emergency tax measures by means of the granting of several specific approvals. In addition, this Policy Statement on emergency measures in response to the corona crisis ('policy statement') contains a number of approvals that had not yet been announced. The policy statement took effect as of April 17, 2020 and – unless indicated otherwise below – has retroactive effect to March 12, 2020. The details of the policy statement are addressed separately below.

1 VAT

1.1 VAT tax relief for the healthcare sector

Outsourcing healthcare workers

Approval has been given for the outsourcing of healthcare workers to remain outside the scope of VAT. It does not matter who the outsourcer is. A number of conditions do however apply to ensure that the VAT benefit of the approval actually ends up at the healthcare institution or healthcare provider.

- the insourcer must be a healthcare institution or care facility that applies the VAT exemption;
- the outsourcer must state on the invoice that this approval is being used and must document the information related to the application of the approval in its accounts and records; and
- the outsourcer is only allowed to charge the insourcer the gross payroll costs, if necessary increased by a cost reimbursement of a maximum of 5%, whereby no profit must be envisaged or realized.

The measure does not affect the recovery of outsourcer's input VAT. The outsourcing does not give VAT taxable persons that perform VAT-exempt services an (additional) VAT recovery right, nor does the application of the approval diminish any VAT recovery right they may have.

Free provision of medical supplies

No VAT has to be paid on medical supplies (relief supplies and equipment) that are provided free to healthcare institutions, care facilities and general practitioners. The provision without money changing hands also has no consequences for the recovery of the provider's input VAT. This is subject to the condition that the medical provisions appear on the [HS classification reference for Covid-19 medical supplies](#) list published by

the World Customs Organization. The deduction of VAT on the costs of the free medical supplies is determined as general overhead on the basis of the VAT taxable person's total turnover, with the free provision of the goods being disregarded.

Both measures can be applied with retroactive effect to March 16, 2020 and run until June 16, 2020.

1.2 Reduced VAT rate for fitness lessons offered online

An approval has been given to apply the reduced VAT rate of 90% to fitness lessons offered online by gyms and similar VAT taxable persons. This approval can be applied retroactively to March 16, 2020 and runs until the mandatory closure of gyms is lifted.

2 Payroll taxes and cross-border workers

2.1 Fixed travel allowance

If employees are obliged to work from home for a longer period as a result of the corona crisis, this could mean that the fixed travel allowance can no longer be paid out untaxed as a specific exemption. The Deputy Minister has approved, insofar as this is necessary, that during the operation of the policy statement employers may use the normal travel patterns of employees, which means that the temporarily changed travel patterns can in fact be ignored. The approval also applies to fixed travel allowances with an agreed recalculation.

2.2 Easing of administrative obligations

For the duration of the policy statement's validity, the Dutch tax authorities will adopt a flexible approach if employers fail to comply with certain administrative obligations, or do not comply with these on time or in full. For example, the payroll tax statement and confirming an employee's identity. If these obligations are not correctly complied with, the anonymous persons rate must generally be applied in the payroll records. It is conceivable that, due to the corona measures, it is currently not realistically possible to, for example, confirm the identity of an employee on the basis of a mandatory original identity document. In such cases the anonymous persons rate does not have to be applied. This is however under the condition that the employer rectifies the administrative obligation as soon as and to the extent that it is able to.

2.3 Border workers

Germany has also taken measures as a result of the corona crisis, including the granting of a number of social security benefit payments. Dutch residents who work in Germany may also be eligible for such benefit payments. It is possible that in certain situations the right to tax these benefit payments may be assigned to the Netherlands, despite the fact

that Germany normally taxes the ordinary employment income of these workers. The fact that Dutch tax could be levied on these benefit payments, which are based on net income, may also cause an undesired reduction in income. The Deputy Minister is therefore allowing a proportionate reduction of the Dutch tax that is allocable to the social security benefit payments received by Dutch residents during the period March 11, 2020 through to December 31, 2020. This must concern *Kurzarbeitergeld*, *Insolvenzgeld* and *Arbeitslosengeld*, to which payments the taxpayer did not yet have a demonstrable entitlement before March 11, 2020.

We would moreover like to point out that the Netherlands and Germany have reached agreement on how to deal with salaried cross-border workers who work at home during the corona crisis. In short, the agreement is that taxpayers *may* treat the extra days worked at home as a result of the corona measures in accordance with where they would work under normal circumstances (the 'usual' state of employment). This agreement applies from March 11, 2020 through April 30, 2020 and will be automatically extended each month until one of the countries terminates the agreement. Negotiations are currently taking place with Belgium about a similar agreement.

3 Other measures

3.1 Deferral of payment for energy tax and the surcharge for sustainable energy (Opslag Duurzame Energie; ODE)

Energy tax and ODE are payable on the supply or use of natural gas and electricity. Current circumstances have led the Deputy Minister to grant a deferral of payment for energy tax and ODE, as well as the VAT on these, in four situations (see also [our memorandum of April 3, 2020](#)). In short, the four situations and the associated approvals (subject to conditions) concern:

1. In cases where an advance invoice is issued or an advance payment is received, no energy tax and ODE or the VAT on this will be charged during the period April-June 2020. One of the conditions for this approval is that the final invoice covers a calendar month. In October 2020 at the latest, the energy supplier will charge the relevant energy tax and ODE, increased by VAT, by means of an additional invoice and this amount will then be payable by it.
2. In cases where no advance invoice is issued or no advance payment is received, but an invoice is issued, no energy tax and ODE or the VAT on this will be charged during the period April-June 2020. One of the conditions here is that the invoice must relate to supplies in April-June 2020. In October 2020 at the latest, the energy supplier will charge the relevant energy tax and ODE, increased by VAT, by means of an additional invoice.

3. In cases where no advance invoice is issued, no advance payment is received and no invoice is issued, the energy tax and ODE for the period April-June 2020, and the VAT on this, will not become payable on the date on which the supply took place, but on November 1, 2020.
4. In cases where energy tax and ODE is payable by the user, the energy tax and ODE for the period April-June 2020 will not become payable on the date on which the use takes place, but on November 1, 2020.

This measure has retroactive effect to April 1, 2020.

3.2 Late payment interest and payment discounts

Previously, (see [our memorandum of March 18, 2020](#)) the government had announced that as of March 23, 2020 the late payment interest rate for all tax debts would be reduced from 4% to 0.01% for a period of three months. The policy statement now implements this announcement. What is new is that this temporary reduction does not apply to late payment interest that the tax collector must *reimburse*. Also new is that businesses that, as a result of the reduction of the late payment interest rate, can basically no longer claim a payment discount – due to the fact that late payment interest is linked to the payment discount – may file a notice of objection against the decision setting the amount of the payment discount, after which the difference will be awarded. This measure has retroactive effect to March 23, 2020.

3.3 Private motor vehicle and motorcycle tax

As a result of the corona crisis, the National Vehicle and Driving License Registration Authority (*Dienst Wegverkeer*, RDW) has lately been giving priority to crucial inspections, which means that scheduled and pending inspection appointments have been canceled. This has undesired consequences for the application of several legislative and regulatory provisions concerning private motor vehicle and motorcycle tax (*Belasting van personenauto's en motorrijwielen*; BPM) related to registration in the vehicle registration register. Three temporary measures have therefore been taken with regard to the BPM:

1. Until July 1, 2020 the exemption for short-term use of a motor vehicle with a foreign license plate by a Dutch resident may be applied for for a second time by the same person for the same motor vehicle, if the inspection was not able to take place as a result of the corona measures taken by the RDW.
2. The last day for the transitional rules for private motor vehicles that are converted to taxis to, for example, transport wheelchairs, is now July 1, 2020 (was April 1, 2020).
3. With regard to the BPM tax return, until July 1, 2020 it is possible to use a valuation report that was prepared no more than four months before the date on which the tax is payable; however this must not be earlier than February 16, 2020.

3.4 Period for applying retroactive effect to tax-neutral conversions, tax-neutral transformations, business mergers, legal mergers and divisions

Tax-neutral conversions and tax-neutral transformations

Due to the current exceptional circumstances, it may not be possible to realize tax-neutral conversions or tax-neutral transformations with retroactive effect to the beginning of the year within the 15-month period set for this. The Deputy Minister finds this unreasonable and has given approval for the tax inspector to extend this period by three months if it expires between March 1, 2020 and May 31, 2020.

Business mergers, legal mergers and divisions

To apply the tax relief for business mergers, legal mergers and divisions with retroactive effect to the beginning of the financial year, certain legal transactions must be performed within 12 months (legal mergers and divisions) or 15 months (business mergers) of the date on which the tax relief has retroactive effect. The Deputy Minister finds this unreasonable given the current exceptional circumstances and has given approval for the tax inspector to extend the abovementioned periods by three months if these periods expire between March 1, 2020 and May 31, 2020.

3.5 Reduction of provisional assessments

In the policy statement, the Deputy Minister refers to the current possibility for businesses that expect their profit in 2020 to be less than the profit taken into account in the imposed provisional corporate income tax or personal income tax assessments, to submit a request to the tax inspector asking that the assessments be reduced. The policy statement subsequently states that the tax inspector will grant this request. If a business has paid more tax than the amount payable after the granting of the request, the difference will be refunded.

3.6 Compensation for Entrepreneurs in Affected Sectors COVID-19

As previously indicated ([see our previous memorandum](#)), the one-off and fixed gift of EUR 4,000 paid out under the Compensation for Entrepreneurs in Affected Sectors COVID-19 (*Tegemoetkoming Ondernemers Getroffen Sectoren COVID-19*; TOGS) will be tax-exempt. It has now been announced in the policy statement that the 2021 Tax Plan package will regulate with retroactive effect that this compensation will not be part of the profit.

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.

The information contained in this memorandum is of a general nature and does not address the specific circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.