

Updated policy statement on corona crisis tax measures, including with regard to deferral of payment

There is a rapid succession of government tax measures being announced as a result of the corona crisis. We previously informed you about these measures in, for example, our memoranda dated [March 18, 2020](#), [March 20, 2020](#) and [April 3, 2020](#). By policy statement dated April 14, 2020 the Deputy Minister of Finance announced a number of specific approvals as a result of the corona crisis (see [our memorandum dated April 17, 2020](#)). That policy statement has now been replaced by the policy statement of April 22, 2020, in which the approvals in the previous policy statement are supplemented with new approvals, including with regard to deferral of payment, payment default penalties and the notification of inability to pay. The new policy statement took effect as of April 25, 2020 and has retroactive effect – in any case with regard to the additional approvals – to March 12, 2020. The elements relating to the additional approvals end on June 19, 2020.

The additional approvals are discussed below.

1. Deferral of payment for tax debts

1.1 General

A special deferral of payment can be granted to businesses that are temporarily facing liquidity problems caused by exceptional circumstances beyond their control. As a result of the corona crisis, a number of temporary approvals have been provided for in this respect.

1.2 Deferral shorter than three months

Approval has been given for businesses to be granted a three-month deferral of payment upon request. The following taxes fall under this approval: payroll taxes and social security contributions, VAT, personal income tax/national insurance contributions, income-related contributions for health insurance under the Health Insurance Act, corporate income tax, tax on games of chance, insurance premium tax, the landlord levy (*verhuurderheffing*), environmental taxes (energy tax and the surcharge for sustainable energy and climate transition (*Opslag Duurzame Energie en klimaattransitie*; ODE), coal tax, waste tax, tax on tap water), excise duties and consumption tax on non-alcoholic drinks. To the extent that VAT, excise duties, consumption tax on non-alcoholic drinks and coal tax are levied under Customs import legislation, a specific Customs arrangement applies.

The request for a deferral of payment may be submitted either in writing or electronically, after a tax assessment for one of the above taxes has been imposed. The policy statement states that the request for deferral will be regarded as a request for the

deferral of payment for all outstanding and pending tax assessments for the abovementioned taxes.

If it is not in the State's interest to grant such a deferral (for example, due to the fear of abuse), the deferral of payment may be refused or withdrawn.

1.3 Deferral longer than three months

Requests for a deferral of payment of longer than three months can only be submitted in writing. The following conditions apply to such requests:

- a. The current payment problems necessitate a longer deferral.
- b. These payment problems arose mainly as a result of the corona crisis.
- c. The obligation to file a tax return was complied with in respect of the tax debt for which a deferral is requested.
- d. The requested deferral relates to one or more taxes that fall under the approval (see section 1.2 above).
- e. If the total tax debt at the time the request for deferral of payment is received amounts to or exceeds EUR 20,000, then an expert third party statement is required (see below).

With regard to deferrals of payment of longer than three months, if the deferral is not in the State's interest, it may also be refused or withdrawn. Interim payment can be demanded during the deferral period, if a business' liquidity position allows for this. Furthermore, the special deferral of payment will be withdrawn as soon as circumstances permit. For example, restaurants and cafés once they are allowed to reopen. Before the deferral is withdrawn, businesses will be given the opportunity to agree a suitable payment arrangement with the Dutch tax authorities. This payment arrangement will not be subject to a maximum term or other requirements applying to normal deferral policy.

Expert third party statement

The expert third party statement must, in any case, contain the following elements:

- A statement that it is likely that there are actual payment problems at the time the request for deferral is submitted or that these can be expected shortly thereafter. According to the policy statement, 'shortly' refers to the period during which the corona measures apply to the particular business.
- A statement that it is likely that these payment problems were mainly caused by the corona crisis.
- A liquidity forecast that is plausible according to the expert third party. This forecast must have been prepared on the basis of the facts and

circumstances known at the time the request for deferral of payment was submitted.

In the explanatory notes to the statement, the expert third party must indicate which documents or information were/was provided by the business. The expert third party does not have to provide a statement assuring that the business meets the conditions (*assuranceverklaring*).

1.4 Other approvals

The policy statement also approves that other types of granted deferrals of payment do not preclude the granting of the special deferral of payment in the policy statement.

During the period that the deferral of payment granted under the policy statement applies, the Dutch tax authorities will, in principle, not credit any tax refunds against tax debts to which a deferral of payment applies. Crediting will remain possible if a business requests this or in cases where the interests of the State are harmed. This approval does not apply to the crediting of import duties.

2. Payment default penalties

The Deputy Minister of Finance wishes to avoid businesses that are granted a special deferral of payment under the policy statement, being confronted with a default penalty due to the late payment of tax. Any payment default penalties imposed during the period March 12, 2020 through to the date on which the deferral of payment granted under the policy statement ends, will therefore be regarded as not having been imposed. If a payment default penalty is imposed, it will be canceled ex officio. Where necessary, this approval will also apply to excise duties and consumption tax on non-alcoholic drinks.

3. Tax collection

3.1 Notification measure for right of seizure

Under certain circumstances a notification obligation may apply to transactions related to the tax authorities' right to seize property found on the tax debtor's premises and within the tax debtor's control (*bodemrecht*). The policy statement contains a number of specific exceptions to this, with regard to situations in which the consequences of the corona crisis play a role.

3.2 Payment history statements

The Deputy Minister of Finance has given approval for a clean payment history statement to be issued if a special deferral of payment is or will be granted under the policy

statement for the imposed additional payroll tax and social security contributions assessment or VAT assessment.

3.3 Notification of inability to pay

In connection with directors' liability, it is important that the directors of a legal entity subject to corporate income tax promptly notify the tax authorities of the legal entity's inability to pay, if it cannot pay certain taxes on time. If a request for a special deferral of payment is made based on the policy statement and the request relates to tax return periods ending after February 1, 2020, the request will also be regarded as a notification of inability to pay that was filed on time. Moreover, the notification will be regarded as legally valid, unless it later on appears that the inability to pay was not mainly related to the consequences of the corona crisis.

3.4 G account

As one of the corona crisis tax measures, the G account can be (partially) unblocked. Provided there is no abuse or improper use, the unblocking can take place upon request; the amount available for release being the balance of the G account that corresponds to the payroll tax and VAT payable for which a special deferral of payment was granted under the policy statement.

The seizure and execution of the G account can also be omitted in the case of (a request for) this special deferral of payment, unless this is not in the interests of the State.

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
April 29, 2020

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.