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Parliament approved a long-awaited package of measures in the area of labour law

The package focuses on the proposed amendments to the Labour Code concerning mainly the organization of work, distribution of working time, taking of holiday and obstacles to work on the side of employee and employer.



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The purpose of these changes is to enable employers to respond more flexibly to changes resulting from the declaration of exceptional situation, state of crisis or state of emergency (“**State of Emergency**”).

Overview of the proposed amendments to the Labour Code

The Parliament approved the proposal to adopt changes in the area of labour law and employment in a fast-tracked legislative procedure. According to the proposed wording, the amendment should become effective following its publication in the Collection of Laws.

1. Work from home (“Home office”)

If the agreed type of work allows for work from home, **the employer will be entitled to order** the employee Home office without the employee’s consent, and similarly the employee will **have the right** to work from home unless there are serious operational reasons on the side of the employer.

According to the current legislation, the employer cannot unilaterally order the employee to work from home without the employee’s consent.

2. An order to take a holiday

The period to order the holiday by the employer will be shortened. Under the proposed legislation, the employer shall be entitled to order the employee to take a holiday not less than (7) days in advance (the currently at least 14 days in advance). In case of untaken holiday, the proposed amendments enable the employer to order the employee to take a holiday two (2) days in advance. This period may be also shortened subject to the employee’s consent.

3. Additional working time – NOT APPROVED BY THE PARLAMENT

If, due to the declaration of the State of Emergency, it is not possible to allocate work to the employee entirely or partially, the employer will be entitled to additionally order the employee to perform work to the extent of time for which the employee was entitled to a wage compensation during the obstacles on the side of the employer (Section 142 of the Labour Code and obstacles on the side of the employer introduced by the amendment to the Labour Code).

Additional working time may be ordered:

- in the maximum amount of 400 hours per calendar year, and
- at the latest within 12 months as of the day on which the obstacle to work occurred.

Although the employee is entitled to its wage for this work, this working time will not be counted into the average weekly working time according to Section 85 of the Labour Code, and therefore the employee will not be entitled to claims for overtime work.

The employer will be obliged to maintain such working time separately in the evidence of working time kept pursuant to Section 99 of the Labour Code.

4. *Distribution of working time*

In general, the employer is obliged to announce the distribution of working time to the employee at least one week in advance, and with a validity of at least for one week.

The proposed act foresees a reduction of the period for announcing the distribution of working time as two days in advance, whereas even a shorter period may be agreed with the employee.

5. *Obstacles on the side of the employer and reduction of a claim to wage compensation*

In case the employee is unable to perform work due to suspension or restriction of the employer's activity **by the decision of the respective authority** or **as a result of the declaration** of the State of Emergency, this is considered as an obstacle on the side of the employer.

During this period, the employee is entitled to a wage compensation, which is automatically reduced to 80 % of the employee's average earnings (amounting at least to the employee's minimum wage). Employee approval or prior agreement with the employee representatives is not required to reduce wages.

6. *Protection of the employees and prohibition of notice*

The employer is obliged to excuse an absence of the employee at work due to quarantine measures and isolation, as this is considered a significant personal obstacle to work on the side of the employee. The employee **is not entitled to a wage compensation** for such period (unless the act stipulates otherwise).

During a period of the employee's excused absence from work due to quarantine measures or care for a family member (CFM), the employee is considered as temporarily incapable of work i.e. within the protected period, during which the prohibition of termination of employment by notice applies (Section 64 of the Labour Code).

According to Section 157 para. 3 of the Labour Code, after the quarantine measures and CFM termination, the employer is obliged to consider the employee's situation as if he had returned to work after the end of temporary incapability to work and assign the employee to his original work and workplace. Where the assignment to the original work and workplace is not possible, the employer is obliged to assign the employee to different type of work corresponding to the employment contract.



Government approved framework of financial compensation to support employment

Government has approved a framework of financial compensation for employers and self-employed persons who will maintain jobs despite the constraints on their operation of business, decrease in sales or outage of subcontractors.



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The proposed measures introduce the possibility of financial compensation through subsidies to employers and self-employed persons in order to relieve the labour market and sustain employment. The measures are aimed to relieve the impacts of the State of Emergency for those employers and self-employed persons who will maintain jobs despite:

- the duty to interrupt or restrict their business operations by virtue of the decision of the Public Health Authority of the Slovak Republic („PHA“);
- interruption or restriction of their business operations on the ground of protection of the health of their employees;
- decrease of sales or outage of subcontractors.

Once the general and special conditions are met, the compensation will be provided as subsidies in the form of:

- a direct financial contribution to employers to cover part of the wage costs of employees who, because of interruption or restriction of their business, are unable to allocate work to those employees, and
- a direct financial contribution to self-employed persons to cover the levy on insurance funds and partial compensation of the loss of income from their business activities.

1. Eligible period

Entitlement to subsidies arises between 12 March 2020 until the end of the calendar month in which the decision of the PHA to close or restrict business operations will be revoked.

2. Eligible applicants

Employers and self-employed persons who were established and started their business no later than 1 February 2020 and at the same time as of 31 December 2019 were not considered as an undertaking in difficulties.

For the purpose of granting the contribution the following entities are considered as employers:

- a legal entity that has its registered seat or registered seat of its branch in the Slovak Republic;
- a natural person that resides in the territory of the Slovak Republic and employs a natural person in an employment relationship or in a similar employment relationship;

- an organizational unit of a foreign legal person or a foreign natural person with a labor-law personality, who is authorized to conduct business in the territory of the Slovak Republic pursuant to the special regulation;
- a legal person or natural person carrying out certain activities under the Employment Services Act.

For the purpose of granting the contribution the following natural persons are considered as self-employed persons, which:

- operate a trade under the Trade Licensing Act;
- operate an activity pursuant to special regulation (e.g. a tax advisor, an attorney-at-law, a notary public, an auditor etc.)
- operate an agricultural production pursuant to special regulation, including forestry and water management.

3. *Special conditions for granting of the contribution*

In order to obtain the financial contribution, an employer or a self-employed person must meet also the following conditions:

- pay the employee the wage compensation corresponding to 80% of his average earnings (60% in case of agreement with the employees' representatives),
- obligation not to terminate the employment relationship in the period of 2 months following the month for which the contribution is requested; more precisely to refrain from a legal act which would terminate the employment relationship with the employee by notice or by agreement for reasons specified under Section 63 para. 1, par. a) and b) of the Labor Code (organization changes),
- submit the number of employees as at 31 March 2020.

4. *Contribution mechanism*

The proposed financial compensation will be provided by the respective Office of Labor, Social Affairs and Family where the employer or the self-employed person maintains jobs or in which the self-employed person operates or performs its business activity.

Applicants of the contribution will be obliged to submit an affidavit, in which they shall declare:

- the fulfilment of special conditions for granting of the contribution (please refer to point 3. above);
- the fulfilment of additional conditions under Section 70 para. 7 of the Act on Employment Services;
- decrease in sales in the case of employers and self-employed persons, whose sales declined at the time of the declaration of the State of Emergency.

5. *Amount of contribution*

According to the proposed measures the maximum amount of total contribution per applicant is EUR 800,000 for the entire period of implementation of the framework.

a) Subsidies for employers who closed or restricted their business operations due to the decision of the PHA

These subsidies are aimed at compensation of wage costs of employees, to whom the employer may not allocate work due to an obstacle on the part of the employer (Section 142 of the Labor Code).

Eligible applicants are employers, who retain jobs in the State of Emergency notwithstanding the duty to interrupt or restrict their operational activity by decision of the PHA. The subsidy will be provided to the employer in the form of payment of an employee's wage compensation amounting to 80% (60%) of his / her average earnings, up to a maximum of EUR 1,100 (EUR 880).

b) Subsidies for employers and self-employed persons, whose sales declined during the State of Emergency

These subsidies are aimed at **compensation of the part of an employee's wage** for the employer or the or **a lump-sum allowance to compensate the loss of earnings for the self-employed** in relation to **the decrease of sales compared to the same period in 2019**. According to the proposed measures, the following entities are eligible to apply for this type of subsidy:

- **employer** who retains jobs in spite of the decline in sales and is not subject to the duty to interrupt or restrict his operating activities by decision of the PHA during the declared State of Emergency,
- **self-employed person** who interrupted or restricted the pursuit or operation of self-employment based on the decision of the PHA or self-employed persons and whose sales declined during the State of Emergency,

- **self-employed person** (considered as an employer) who during the State of Emergency, interrupted or restricted the pursuit or operation of its business activities by decision of the PHA or a self-employed person whose sales had declined but retained jobs.

The allowance to cover part of the employee's wage compensation or the lump-sum allowance for loss of income shall be provided in the following amounts:

Decrease of sales	March 2020	April 2020 and the following months of the State of Emergency
≥ 20 %	90,- EUR	180,- EUR
≥ 40 %	150,- EUR	300,- EUR
≥ 60 %	210,- EUR	420,- EUR
≥ 80 %	270,- EUR	540,- EUR

The maximum total amount of contribution per eligible applicant under this point is EUR 200,000 per month. For the sake of completeness, we note that the proposed framework does not include a mechanism for calculation of the decrease in sales of individual employers and self-employed persons.



Parliament approved extraordinary measures in the financial area

In connection with the coronavirus (COVID-19) the Slovak Parliament approved several measures in the financial area. These measures are related to tax, customs duties, accounting and the financial market.



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The Slovak Parliament approved yesterday the draft of the Act on certain extraordinary measures in the financial area in connection with the spreading of a hazardous infectious human illness COVID-19. The subject of the Act are measures in areas administered by the Slovak Ministry of Finance. These measures will be effective from 12 March 2020 to the end of the calendar month in which the Slovak Government will revoke the extraordinary situation (the “pandemic period”).

The proposed measures are divided into the following areas:

Measures in the areas of tax, customs duties and accounting

1. Measures in tax administration

- *Missing deadlines* - the failure to meet deadlines during the pandemic period will be forgiven under the condition that the respective action will be made by the taxpayer by the end of the month following the end of the pandemic period at the latest. The forgiveness of missing deadlines does not cover the submission of tax returns and payment of individual taxes.
- *Tax audits* - the proposed measure interrupts the periods for the performance of tax audits except for cases when the subject of the tax audit is the claimed excessive VAT deduction. In such a case the tax authorities can issue a partial protocol to the amount which without any disputes should be repaid to the taxpayer.
- In line with the proposed Act the due tax with a deadline for its settlement elapsing during the pandemic period and which will be settled by the taxpayer by the end of the calendar month following the end of the pandemic period will not be considered as a tax underpayment.

2. Exemption of goods for the support of victims of a natural disaster from VAT and customs duties

In the frame of extraordinary measures in the financial area it is also proposed to exempt goods for the support of victims of a natural disaster from VAT and customs duties. The admission of the exemption is subject to the decision of the European Commission. The European Commission acts based on the application of the member state in line with the procedures during extraordinary situations in the state of emergency. Due to this the customs office will suspend the requirement for the payment of import duties and VAT in the case of this type of goods until the decision of the European Commission will be made, under the condition that the importer will bind themselves to settle the customs duties in the case that the European Commission will not comply with the application.

3. Exemption from administrative duties

The proposed Act determines conditions that must collectively be met for the forgiveness of administrative duties – the filing is made during the pandemic period and the purpose of the filing is to reduce the negative consequences of the pandemic.

4. Measures in the area of income tax

The proposal of the Government also changes the deadlines for filing income tax returns. The deadline for filing income tax returns is moved to the end of the calendar month following the pandemic period. Within the same deadline also the income tax will be due.

The draft Act leaves the taxpayers who's the last day of the period for filing the tax return falls within the pandemic period the possibility to extend the filing deadline also in line with the respective provisions of the Slovak income tax act (by 3 or 6 calendar months). If the deadline for filing the tax return mentioned in the filed notification on its extension will lapse during the pandemic period, the new deadline will be the end of the calendar month following the pandemic period.

The proposed Act only determines a special deadline for filing the tax return and the due date of the tax liability. All other obligations related to filing the tax return and the payment of tax, the method of filing the tax return, the persons obliged to file a tax return and similar matters remain applicable as governed by the Slovak income tax act (e.g, a new tax advance payment period will start on the day following the deadline for filing the tax return outlined in this provision).

The draft Act does not precisely stipulate in which amount tax advance payments will have to be paid, especially in the case of taxpayers who filed their tax return within the ordinary deadline of 31 March 2020. Taking the retroactive shift of the filing deadline for tax returns into consideration and that the new Act was not approved by 31 March 2020, it is not clear if these taxpayers should continue to pay tax advance payments based on their 2018 tax liability or should starting from April pay tax advance payments based on their 2019 tax liability. We assume that these and other uncertainties will be clarified. If this matter concerns you, please contact us and we will inform you about the current status.

The medialized measure for the one-off deduction of unused tax losses is not included in this draft Government's proposal of the Act.

5. Change of statutory deadlines

The proposed measures in the tax, customs and accounting area determine in more cases new deadlines and conditions under which the deadlines do not expire, as well as conditions for eventual forgiveness of sanctions.

Below we outline an overview of selected deadlines approved by the Government:

	New deadline
Filing the motor vehicle tax return for a period other than the calendar year*	end of the calendar month following the end of the pandemic period
Deadlines under the accounting act, including the obligation to submit the financial documents to the Registry of financial statements	end of the third calendar month following the end of the pandemic period, or the deadline for filing the income tax return, whichever will be earlier
Filing of income tax return (including the attribution of a share in the paid tax)	end of the calendar month following the end of the pandemic period
Filing the statement on the attribution of a share in the paid tax (if not attributed via the tax return)	end of the second calendar month following the end of the pandemic period
Issuance of the confirmation on the paid tax for the purposes of attribution of a share in the paid income tax	within 15 days of the second calendar month following the end of the pandemic period

Notification on the clearance of tax and on the amount of income from employment paid to individual employees without regard to the nature of the income (in cash or in kind) for the past taxable period, on the withheld tax advance payments, on the employment premium, on tax bonus and on the tax bonus for the paid interest costs	the end of the second calendar month following the end of the pandemic period
Annual tax clearance	the end of the calendar month following the end of the pandemic period
Delivery of the document on the performed annual tax clearance	the end of the second month following the end of the pandemic period
Filing the notification on the withholding and settlement of income tax of a provider of healthcare and payment of the tax	the end of the calendar month following the end of the pandemic period

*for example, a taxpayer ceasing to exist without liquidation, with liquidation, on assets on which bankruptcy proceedings were announced, a taxpayer who ended or interrupted his business activities

Measures in the area of the financial market

The second part of the measures are measures in the area of the financial market, including also measures in the area of financial aid with the aim to preserve employment and performance in small and medium sized companies. The financial aid should be granted in the form of a guarantee to a loan and/or payment of interest costs from loans. The provider of this type of financial aid will be the Slovak Ministry of Finance and the mediators of the aid will be the Export-Import Bank of Slovakia and Slovenská záručná a rozvojová banka, a.s.

The proposal of the Government was approved by the Slovak Parliament in the shortened legislative procedures and it should be effective from its announcement.

We are monitoring the actual situation and will inform you on further developments.



10 current questions about the impact of VAT on business cash flow

In view of the current situation and the spread of COVID-19, businesses are now more than in the past concerned about the impacts of VAT on business cash flow, focusing mainly on the proposed measures related to the possibility to defer tax payment deadlines.



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In addition to tax payment due dates, also other VAT rules can turn out relevant. Let's remind ourselves of some of them based on the following questions in the area of VAT, which can be put in place by businesses, and not only these days, with the aim of improving business cash flow.

1. Are we allowed to file VAT return covering a longer, or on the other hand, a shorter time-period?

Tax period of a VAT payer is generally a calendar month. A VAT payer may opt for a tax period of a calendar quarter provided that more than 12 calendar months have lapsed since the end of the calendar month in which he became a taxpayer and that he has not reached a turnover of EUR 100,000 for the period of previous 12 successive calendar months.

If a business submits VAT returns on a monthly basis, in which it regularly declares outstanding VAT due, changing the tax period from a calendar month to a calendar quarter can be considered. The VAT payer must notify the tax authority of the change, following the rules set out in the Slovak VAT Act.

On the other hand, if a business submits VAT returns quarterly, and based on the nature of its business it normally reports transactions giving rise to an excess VAT deduction, the tax period could be amended back to a calendar month, even if the turnover condition for a quarterly tax period is still met.

In this respect, it should be considered whether changing the tax period would impact the resulting position towards state budget.

2. Normally, we report an excess VAT deduction in our VAT returns. Can we request an accelerated refund?

The tax authorities will refund the excess VAT deduction earlier than within the time period based on the rules defined in Article 79 Section 1 of the VAT Act, if conditions set out by law are satisfied. The tax authorities will refund the excess VAT deduction within 30 days of the deadline for submitting the VAT return for the tax period in which the excess VAT deduction arose, if the VAT payer:

- files monthly VAT returns;
- has been registered as a VAT payer for at least 12 months; and
- has not had outstanding tax and other public debts exceeding EUR 1,000 in the preceding 6 months.

If the above conditions are met, the VAT payer can request an accelerated refund by ticking a box in the VAT return form.

3. We plan to secure a payment upfront from our customer, i.e. a payment prior to the actual supply. How will this impact the date of taxable event?

A mere request for payment upfront, i.e. prior to the supply of goods or service, does not give rise to a taxable event. Where a payment is received prior to the supply of goods or service, the VAT liability arises on the payment receipt date from the payment received.

4. Does the invoicing frequency affect the date of taxable event in case of recurrent supplies of goods and services?

If the supply of goods or services is rendered locally on a recurrent basis, then such goods or services are deemed supplied at the latest as of the last day of the period to which the payment for the recurrent supply of goods or services relates, with certain exceptions.

The date of taxable event is determined this way, if the payment for recurrently supplied goods or services is agreed for a time-period shorter than 12 calendar months.

For example, a lessor, VAT payer, leases immovable property (business premises) in Slovakia to a business with VAT and it is clear from the leasing agreement that the service recipient should pay for the leasing service within 15 days of the end of each calendar half-year. In this case, a recurrent supply of service on a half-year basis is concerned. This service is deemed supplied at the latest as of the last day of each calendar half-year.

For purposes of these rules, a recurrent supply of goods or services means a supply of the same type of services at recurring periods agreed upon in advance.

5. We face delays in receiving invoices for acquisition of goods from another EU member state. Does this fact have an impact on claiming the right for VAT deduction?

For an intra-EU acquisition of goods, VAT is chargeable on whichever is earlier:

- a) the 15th day of the month following that in which the acquisition of goods took place, or
- b) the invoice issue date.

However, business must hold an invoice issued by the supplier from another EU member state to be allowed to exercise its right to VAT deduction.

If a business customer, a Slovak VAT payer, faced a delay in receiving invoices from his supplier from another EU member state, it may happen that he would become obliged to declare VAT liability and pay the VAT before becoming allowed to exercise his right to VAT deduction. Such situation leads to negative impact on business cash flow.

Therefore, it is important to communicate with the supplier and design reliable processes for managing the flow of documents between the contractual parties, with the aim of securing timely receipt of invoices and thus a neutral impact of a transaction on the outstanding VAT liability.

6. Is there space for introducing internal measures for an earlier or additional exercising of the right for VAT deduction based on the received invoices?

A VAT payer can exercise the right for VAT deduction from the received invoices for domestic supplies of goods and services in any VAT period of a calendar (financial) year, however not earlier than in the tax period, in which the right for tax deduction arises, and not later than in the last tax period of the calendar (financial) year, in which the right for tax deduction arises, if he holds, up to the deadline for filing the VAT return for the tax period in which the VAT payer exercises the right for tax deduction, an invoice from a Slovak supplier.

Businesses can consider whether there is space for making the process of registering, processing, reviewing and approving

the received invoices easier and more efficient, to prevent unnecessary delays in including them in the VAT return, and hence to a later exercise of the right for VAT deduction.

If there are still any invoices from the previous calendar (financial) year kept on file, based on which the input VAT could no longer be deducted in the current year, it is appropriate to claim the deduction as soon as possible via a supplementary VAT return.

7. We record a VAT overpayment based on the submitted supplementary VAT return showing a decreased VAT liability compared to the VAT return first filed. Do we have to take any further steps to claim its refund?

The overpaid VAT will not be refunded to the VAT payer's bank account automatically. If the VAT overpayment cannot be used to settle any tax arrears, tax prepayments due, customs duties or other payments due, the tax authorities will refund the VAT overpayment based on a submitted application within 30 days of its receipt.

8. We bought goods in other EU member states for business purposes, incurring local VAT. Do we have to wait until the end of the year to reclaim this VAT?

Application for EU VAT refund can be filed, in line with the Council Directive 2008/9/EC, for a refund period of not more than one calendar year or less than three calendar months. Refund applications may, however, relate to a period of less than three months where the period represents the remainder of a calendar year.

If the refund application relates to a refund period of a calendar year or the remainder of a calendar year, the amount of VAT may not be less than EUR 50 or the equivalent in national currency. If the refund application relates to a refund period of less than one calendar year but not less than three months, the amount of VAT for which a refund is applied for may not be less than EUR 400 or the equivalent in national currency.

Potential limitations of the individual EU member states must be respected.

9. We will refund the invoiced amount or its part to our customer, as the supply of goods or service was wholly or partially cancelled, or the goods were returned to us. How can we reclaim the VAT previously settled with the tax authority?

Under the mentioned circumstances, the VAT payer will adjust (decrease) the taxable amount. The difference between the original and the adjusted taxable amount and the difference between the original VAT and adjusted VAT will be declared in the VAT return for the tax period in which the document on adjustment of tax base is issued, with certain exceptions. This document must be issued within 15 days of the end of the calendar month in which the event decisive for performing the adjustment of taxable amount has occurred (cancellation of a supply of goods or service, return of goods).

10. Can we opt for paying VAT on our sales to the state budget only when our customers pay us?

Businesses can pay VAT to the state budget only when the customer pays their invoice, if they apply the cash accounting scheme in line with Article 68d of the VAT Act. This special scheme is focused on small businesses – only VAT payers established in Slovakia can opt for its application if they don't reach the turnover of EUR 100,000 for the preceding calendar year and reasonably do not expect this turnover to be exceeded in the current calendar year. Excluded are taxable persons who declared bankruptcy or entered into liquidation, subject to further conditions.

As it is apparent from the practical implications of the mentioned rules, process settings in the area of VAT can have a considerable impact on business cash flow and, not least, on administration costs of businesses.



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