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7 frequently asked questions in connection with measures in the area of employment and labor law

The Slovak government regularly adopts measures in the area of employment and labor law with the aim to mitigate negative impacts of the extraordinary situation caused by COVID-19. Please find below seven most frequently asked questions that our clients address to us in this regard.



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Following the amendment to the Labor Code (effective as of April 4, 2020) and the adopted Employment Support Project (the "Framework"), we present you the seven most frequently asked questions that our clients address to us regarding labor law and government measures aimed to support the employment.

1. Is an undertaking classified as a "large enterprise" within the meaning of Annex no. 1 of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty entitled to request aid under the Framework?

Yes, an employer classified as a large enterprise may also apply for the aid. The Framework does not include conditions which would impose any restrictions in relation to the size of the employer.

2. May a legal entity simultaneously request for a combination of aid under Measure 1 (financial compensation to cover wage costs of employers bound by the duty to close or restrict their business operations by virtue of the decision of the PHA) and Measure 2 (financial compensation for decrease of sales)?

No, the current wording of the conditions of the Framework excludes the cumulation of the aid. However, the conditions are under development and upon release of the conditions for Measure 2, the situation might change.

3. What is the maximum amount of financial compensation to cover the wage costs of employees under the Framework?

According to the initial draft conditions of the Framework the maximum amount was limited to EUR 200,000/per month up to EUR 800,000 for entire duration of the term when the aid is provided.

On 8 April 2020, the maximum amount of aid per month set as EUR 200,000 was lifted.

Most recently, on 14 April 2020 the government lifted the maximum amount of EUR 800,000 per one applicant for the entire duration of the term when the aid is provided.

4. Is it possible to apply for the aid to cover the wage costs of employees who are on holiday or working under the special working time arrangement (flexi account of working time agreed with trade unions; "flexikonto")?

No, it is not possible yet.

Currently, the employers may apply only for the aid under Measure 1 of the Framework. Measure 1 is aimed at such employers, who are bound by the duty to interrupt or restrict their business operations by virtue of the decision of the Public Health Authority of the Slovak Republic („PHA“); These subsidies are aimed at compensation of wage 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).

On 14 April 2020, the government adopted a revision of the conditions of the Framework and introduced the new Measure 3, which is aimed at employers, whose sales decreased as a result of the extraordinary situation and are not bound by the duty to interrupt or restrict their business operations by virtue of the decision of the PHA.

Such employers may choose from the following options:

- a subsidy for payment of the employee's wage compensation amounting to 80 % of his / her average earnings, up to a maximum of EUR 880 (applicable to such employees, to whom the employer may not allocate work due to an obstacle on the part of the employer under Section 142 of the Labor Code); or
- a subsidy to cover part of the wage costs for each employee in the amount depending on the decrease of sales in the amount according to the tables under Measure 2 (Measure 2 is intended for self-employed persons who are not employers).

5. Is it possible request aid for employees on CFM or sick leave due to the quarantine measures or school closures?

No, it is not possible. The subsidies are not available for the employees receiving social security benefits (sick leave, CFM).

6. Is the amendment of the Labour Code connected with conditions of promotion of employment? Who pays 80 % of wages? The state?

The amendment of Labour Code in question only sets forth the amount of employee's wage compensation in case of obstacles to work on the side of the employer during an extraordinary situation (if there is no agreement between an employer and employees' representatives).

The amendment of the Labour Code does not automatically constitute an entitlement to subsidies aimed to support the employment under the Framework.

The maximum amount of subsidy for employees' wages is limited by the amount of wage compensation in case of obstacles to work on the side of the employer determined in the Labour Code. If an employer provided a wage compensation to an employee that exceeded 80 % of their average earnings, the remuneration for such period shall consist only of 80 % of their average earnings, up to EUR 1100.

7. For what period the decrease of sales is assessed? What period is assessed if we meet the conditions for aid, but we started our business just this year?

In general, the decrease of sales is assessed according to the same period in 2019. In case of an applicant not performing business activities in such period, the decrease in sales is assessed according to February 2020.

Under the conditions of Measure 2, dated 8 April 2020, every applicant can choose from the following options:

- Sales of the same month of the previous year are compared (e.g. period of March 2020 is assessed according to March 2019), or
- Average sales generated during the entire year 2019 are compared (can only be used in case of applicants performing business activities during the whole year 2019), or
- Sales of February 2020 are compared (can only be used in case of applicants who only performed business activities only during part of 2019 or started their business on 1 February 2020 at the latest).



Coronacrisis raises tax and social security issues with cross-border employment

OECD, European Commission as well as respective states continuously provide new information how to deal with tax and social security issues arising due to COVID-19 restrictions. A common attitude is that temporary changes due to the pandemic situation should not lead to significant impacts in tax and social security obligations. However, many questions remain open.



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COVID-19 pandemic crisis is raising many issues with cross-border elements; e.g. employees stranded in a country that is not their country of residence; employees, management, or salespersons who must work from another country than it was expected or other country than the country of the company's seat etc. The respective institutions seek responses to these questions:

- With respect to the individuals stranded in a country other than their tax residence, OECD is of the opinion that tax residence should not change due to such temporary dislocation.
- OECD stated that temporary change of the location where employees exercise their employment because of the COVID-19 crisis should not create new Permanent establishments ("PEs") for the employer. Similarly, temporary conclusion of contracts in the home of employees or agents because of the COVID-19 crisis should not create new PEs.
- Cross-border workers staying in their country of residence and temporarily out of work because of the COVID-19 (receiving income due to stimulus packages) should continue to tax the income received during this no-work-period in the country where they used to exercise the employment.
- Employees or posted workers working from home office in another EU member state than the state of their usual work should continue to be governed by the social security legislation of the member state as before COVID-19.

The information published by the institutions are of a general nature and in practice various and more complex situations arise. As an example, new employment contract started for a foreign employee during the pandemic crises where the employee cannot relocate to the country of his new employment should or should not continue to be governed by the social security legislation of the member state as before COVID-19? And how to approach taxation of work performed temporarily from a home office in other country than the country of the employer?

This is a complex and hot topic especially in case of employees working for Slovak companies from their home offices in Austria solely due to the COVID-19 situation. This has been recently addressed also by the Slovak chamber of tax advisors and Slovak-Austrian Chamber of Commerce, Slovak-German Chamber of Industry and Commerce and American Chamber of Commerce in Slovakia in a common initiative pointing out the burdens resulting from this Austrian regulation focused on taxation of Austrian tax residents working from home for employers seated outside Austria.

The institutions keep working to mitigate the unplanned implications and potential burdens arising due to the COVID-19

crisis. However, the questions could emerge quicker than the answers from the authorities. If you have any urgent topics to be discussed, please do not hesitate to contact us.



EU: Customs duties and VAT waived, imported medical equipment (COVID-19)

The European Commission approved temporarily waive of customs duties and VAT on the import of masks and protective equipment, testing kits and medical devices such as ventilators from the third countries.



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More info

The European Commission approved requests from EU Member States and the UK affected by the coronavirus (COVID-19) pandemic, to temporarily waive customs duties and VAT on the import of masks and protective equipment, testing kits and medical devices such as ventilators from the third countries.

This measure applies for six months, retroactively from 30 January 2020, with a possible further extension.

https://ec.europa.eu/commission/presscorner/detail/en/ip_20_575



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