

Tax issues of the “COVID - Rent” subsidy program

24th June 2020

Last Friday, the Ministry of Industry and Trade published a call for the “[COVID - Rent](#)” subsidy program. The purpose of the program is to provide state aid to tenants who had to close their retail outlets or establishments for a certain period of time due to coronavirus. While targeting tenants, the program may also have a significant impact on landlords.

In order to apply for the subsidy, a tenant must, among other things, get from the landlord a 30% discount from the rent. The state will then pay 50% of the rent as a subsidy ; after receiving the subsidy, the tenant will actually only pay the remaining 20% of the rent.

The aid will cover rents for the period from April to June 2020 and will be subject to the satisfaction of several other conditions. The first applications may already be submitted on Friday 26 June 2020.

Obtaining the aid will obviously require an agreement by both parties to amend the lease contract. The landlord is not legally obliged to provide the 30% rent discount that is one of the requirements for the tenant to become eligible for the subsidy. In practice, it is quite common that the discount negotiations may lead to more comprehensive amendments of the contractual terms and conditions (typically other obligations of the tenant, adjustment of the lease period, etc.).

Drafting a correct commercial agreement is a complex task from both legal and tax perspective.

For example, one of the key questions is to what extent discounts may be provided retrospectively. The available opinions of the tax administration cause even more uncertainty, as they strongly emphasize the interpretation that, in certain cases, such agreement should be regarded as a (partial) debt waiver rather than a discount, which may have negative tax effects especially on the landlord (i.e. both income tax and VAT implications). In addition, there is a number of other issues connected with the practical application of the program.

We recommend that you do not delay, and certainly not underestimate, the preparation of the relevant documentation.

We will be happy to assist you in this area.



David Kužela

david.kuzela@cz.ey.com
+420 731 627 085



Jakub Kašuba

jakub.kasuba@cz.ey.com
+420 735 729 334