



# Postponement of rent payments until 2022

The current amendment defers the loss of cash flow for landlords until 2022. However, their tax obligations remain as if no loss of cash flow had occurred. On the other hand, tenants are threatened with unchanged contractual sanctions.

On 1 April 2020, the Government passed a bill<sup>1</sup> aimed at mitigating the negative economic impact of emergency measures on tenants of business premises.

According to the bill, tenants will be able to postpone the payment of rent due between 12 March 2020 and 30 June 2020 (unless the emergency measures are terminated earlier) for up to two years.

Until 31 March 2022, landlords will not be able to unilaterally terminate a lease due to a delay in payment for the aforementioned period (both rent and related services) as a result of emergency measures in an epidemic.

For the sake of completeness, please note that the government has taken similar measures to protect tenants of residential apartments.<sup>2</sup> The main difference is that, in the case of renting apartments, the rent payable between 12 March 2020 and 30 September 2020 may be deferred (unless emergency measures are terminated earlier), but no later than 31 May 2021. Nonetheless, below we deal only with the rental of commercial premises.

## ■ Tax obligations are not reduced

At this point, we leave aside the related legal issues<sup>3</sup> and focus only on the tax implications of the bill.

Although the explanatory memorandum states that this “measure is de facto merely postponing the receipt of profits without changing the amount”, the practical impact on landlords may be more fundamental.

The bill neither attempts in any way to mitigate the related financial impact on landlords (necessity to pay fixed costs, interest or payments to energy and service providers, etc.), nor their tax obligations to the State.

Most landlords will be required by law to pay VAT on these rentals by the regular deadlines and apply the income tax for 2020 to revenue that may remain unpaid until March 2022.

On the other hand, tenants who are in arrears with invoice payment are not prevented by the new rules from claiming the VAT deduction (if the standard conditions are met), meaning they will receive an additional cash flow advantage at the expense of the landlord.

The bill does not change any other contractual arrangements for landlords, so the possibility of applying contractual penalties and default interest in full will be preserved. In general, they should not be subject to VAT and from the point of view of income tax are only taxable when they are paid.

## ■ Practical recommendations

The new amendment comes at a time when many landlords and tenants are already intensively addressing contractual arrangements; we have previously commented on selected aspects.<sup>4</sup>

The Government's proposal is restricted to a limited set of problems and recognizes that, given the diversity and complexity of existing tenancy relationships, it leaves a large part of the problem areas to individual agreement between parties.

We therefore recommend that landlords and tenants not underestimate this area and consider timely and appropriate adjustments to existing contractual arrangements (taking into account the related tax implications).

We will be happy to assist you with the tax side of contract revision.

1 The bill may be viewed at: <https://apps.odok.cz/veklep-detail?pid=ALBSBNAADL8Q>

2 The bill may be viewed at: <https://apps.odok.cz/veklep-detail?pid=KORNB8VEE5T>

3 For example, how to prove that the delay was largely due to a restriction resulting from the emergency measure.

4 <https://s3.eu-central-1.amazonaws.com/cdn.podnikatelroku.cz/uploads/assets/544fd769-fded-4c3c-94f2-8ef02504746d.pdf>



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