COVID-19: Government Support Package

Belgium

2 April 2020

Building a better working world

2 Belgium - announced responses

Cash flow measures

Tax Deferrals on a Federal and Regional Level

- Payment deferral of VAT, income and payroll taxes for businesses **upon request** provided that these taxpayers were negatively impacted by the Corona outbreak for pre 12 March 2020 tax liabilities.
- An **automatic** general payment deferral of income taxes, payroll taxes and VAT from 12 March 2020. Accelerated VAT refund possibility in February return.
- Extension of tax return filing dates for Corporate income tax, Non-Resident corporate income tax and legal entities taxation
- Postponement of VAT returns, Annual and Intra-Community sales listing
- Payment deferral of various regional and local taxes (amongst others real estate tax, traffic tax, city tax, taxi tax)
- 'Tax shelter' – postponement of expenditure requirements for this initiative
- Payment deferral for employers Social contributions and a postponement, exemption, bridging right for Self-employed persons in case they have to stop their activities for more than one week

Liquidity and financing

The Belgian National Bank is providing a €50 billion guarantee scheme to lenders such that the government agrees to guarantee up to €50 billion of potential losses.

Postponement of loan payments until 30 September 2020 without charge.

Activation of a guarantee scheme for all new loans and credit lines with a maximum duration of 12 months, which banks provide to viable non-financial businesses and the self-employed.

This is to safeguard funding for families, the self-employed and businesses during this time.

The Belgian insurance sector reached an agreement for supporting measures to mitigate the negative impact of the coronavirus crisis on private individuals, households, the self-employed and businesses.

Insurance companies to provide flexibility towards customers in payment difficulties and aim to maintain insurance coverage overall.

Employment support/HR

- Support for temporary unemployment benefits due to force majeure, incl. an increased benefit from 65% to 70%.
- Tax impact on cross-border workers and employee benefiting from the "expat" special tax concessions (DTT BE-France and DTT BE-Luxembourg).
- Employers are allowed to grant their employees facilities for Telework.

Other supporting measures - grants

- Nuisance premiums for businesses affected by full or partial closure further to decision of the National Security Council.
- Flexibility according to conditions for support measures and subsidies (VLAIO).

Administration

- Flexibility to make use of the different tools to overcome difficulties with regard to the continuity of corporate decision making.
- Postponement of non-essential tax audits
- Extension and postponement of certain tax filings (see cash flow)

Cash flow support: Federal Government tax payment deferrals

Both for direct and indirect taxes the Federal Government has granted a deferral of payment of taxes.

Depending on the date the income tax was assessed the deferral is treated upon request or awarded automatically.

Income taxes assessed prior to 12 March 2020 require a request for deferral and prove that the payment difficulties are related to the outbreak of the COVID-19 crisis.

Payment holiday which requires a formal request for tax liabilities assessed prior to 12 March 2020:

- For CIT, PIT, Taxes on legal entities, Payroll WHT, VAT
- Businesses, i.e. individuals and legal entities with a Belgian company number (registered at the Crossroads Bank for Enterprises "CBE"), regardless of their activity
- Not for businesses that have already experienced structural payment difficulties, regardless of the coronavirus.

In practice:

- One request per tax debt through specific request form until (and included) 30 June 2020.
- Response to each request within a 30-day period.
- Proof of difficulties caused due to COVID-19 crisis to be provided.
- Waiver of late payment interests and of administrative penalties due to late payments.

Payment holiday of 2 months on top of the normal payment term for tax liabilities assessed as from 12 March 2020.

- CIT, PIT, Non-residents taxation, taxes on legal entities.

In practice:

- No specific proof required of difficulties caused due to COVID-19 crisis.
- Waiver of late payment interests and of administrative penalties due to late payments.
- Not applicable for annual tax for public regulated real estate investment companies which is still due by March 31, 2020.

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Cash flow support: Federal Government tax payment deferrals (continued)

Specifically for VAT and **Professional**/Payroll WHT the payment of taxes automatically deferred to future fixed dates of payment.

Payment deferral for VAT:

- Payment for monthly return of February 2020 deferred to 20 May 2020.
- Payment for monthly return of March 2020 deferred to 20 June 2020.
- Payment for quarterly return - 1st quarter 2020 deferred to 20 June 2020.

In practice

- Automatic payment holiday with no application required.

For more information

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Payment deferral for Professional/Payroll WHT:

- Payment for monthly return of February 2020 deferred to 13 May 2020.
- Payment for monthly return of March 2020 deferred to 15 June 2020.
- Payment for quarterly return - 1st quarter 2020 deferred to 15 June 2020.

In practice

- Automatic payment holiday with no application required.

For more information

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Cash flow support: Federal Government VAT refunds

Accelerated refund monthly VAT returns via current account.

Payment plans and a waiver for penalties and late payment interest available

No VAT on donations of medical equipment and protective gear

VAT refunds:

- Taxpayers filing monthly tax returns - including those who do not have a monthly return permit and who are not considered 'starter' - will be able to benefit from an earlier VAT refunds via their current accounts.
- Instead of repayment on 29 May (or even 30 June) refunds expected by 30 April.

In practice:

- The February VAT return to be filed via Intervat and the box 'request for refund' to be checked. This return can be filed until April 3 instead of March 20.
- Other basic conditions remain applicable.

Other VAT points for consideration:

- Until June 30, a request can be filed to obtain a payment plan and a waiver for penalties and late payment interests via a special form and under certain conditions, such as having duly filed all returns, absence of fraud and a motivation.
- No VAT on donations of medical equipment and protective gear - under certain conditions, the VAT authorities will not claim VAT on these donations.
- Taxpayers making use of the special VAT return 629 will have more time to file - With regard to the first quarter of 2020, the payment is deferred from 20 April 2020 up to and including 20 June 2020.

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Cash flow support: Federal Government – Social security payment deferrals

Both for employers and self-employed individuals the Federal government has introduced supporting measures in the field of social security.

Employers social security contributions

- A delay for payment of social security contributions up to 15 December for payments from 20 March 2020.

In practice:

- Automatic postponement is for all businesses that were forced to close.
- Other businesses that were not forced to close, but that were unable to meet the imposed sanitary measures, are allowed to request for a deferral of payment based on a statement of honour ('verklaring op eer') via specific form.

Self-employed social security contributions

- Bridging right due to force majeure eased.
- Payment deferral for provisional social security contributions.
- Waiver of surcharge due to late payment.
- Reduction of provisional contributions.
- Remission of payment for provisional contributions and contribution supplements.

In practice:

- Measures subject to various conditions relating both to payment periods taken into consideration and forms to use

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Cash flow support: Federal Government tax filing postponement

For certain income taxes an automatic extension of tax return filing dates is granted

For VAT a postponement of the deadline to submit VAT returns, intra-Community sales listings and annual sales listings is granted.

Income Tax filing

- Corporate income taxes (CIT)
- Non – resident income taxes (companies)
- Legal entity taxation

In practice

- Tax returns with filing due dates between 16 March and 30 April 2020 can be filed up to 30 April 2020 (midnight)
- No formal request required, the adjusted filing due date has already been integrated in the tax filing platform

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VAT filing

- VAT return and intra-Community sales listing of February 2020: deadline extended until 6 April 2020
- VAT return and intra-Community sales listing of March 2020 / Q1 2020: deadline extended until 7 May 2020
- Annual sales listing of 2019: deadline extended until 30 April 2020

In practice – VAT refunds

- For monthly refund license holders who would like to apply for the monthly refund, then the deadline is extended until the 24th of the month following the reporting period (i.e. February 2020 should be submitted by 24 March 2020).
- For VAT credits in connection with the February VAT return it is possible to extend the filing until April 3. The refund box on the February return should be checked and the VAT will be repaid by April 30.

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Cash flow support: Regional Government tax deferrals – administrative and procedural easing

On the various regional levels (Flemish, Walloon and Brussels Capital) tax related measures are in place in order to both support cash flow for businesses and individuals as well as to alleviate the administrative and procedural burden that such taxes may bring along for the taxpayers experiencing difficulties related to the outbreak of the COVID-19 crisis

Flemish Region: Postponement of the real estate tax assessment for companies (legal personality).

In practice:

- Mailing of the property tax assessments for companies will be postponed until September 2020 (in stead of May 2020)
- One-man businesses can apply for a payment plan and/or remission of late payment interests

Flemish Region: Extension of the deadline for payment of the traffic tax for companies (legal personality).

In practice:

- Additional 4 month period to pay the tax.
- Notices of assessment sent from 26 March will already contain a 6 months term of payment.
- For notices of assessment sent prior to that date, the taxpayer is allowed to add an extra 4 month term of payment to the indicated date on the notice.
- No late payment interest will be due.
- One-man businesses can request for a payment plan and/or remission of late payment interests

Flemish region: Inheritance tax and registration duties: extension of deadlines to fulfill fiscal obligations

- This applies e.g. for the filing of the inheritance tax return and for the registration of deeds.

In practice:

- Tolerance consisting of an additional 2 month period following the end of the strict corona measures will apply for all filing and registration deadlines
- No specific request required

Brussels Capital Region:

- City tax (tourism): the payment of the tax will be suspended
- Taxi tax suspended

In practice:

- Suspension of the payment of city tax applies for the first quarter of 2020
- Taxi tax suspended for the entire year 2020

Walloon region: Payment deferral for regional taxes

In practice:

- A general payment deferral of regional taxes will apply corresponding to the entire duration of the corona crisis

Walloon region: various tax procedural or administrative measures with respect to:

- Tax litigation:
- Tax collection:
- Tax audits:
- Kilometre-based charge:

In practice:

- Tax litigation objection periods and negative administrative decisions will be frozen during the crisis, but positive decisions will be applied
- Pending collection procedures will be eased.
- Physical tax audits are suspended.
- Administrative fines related to this charge will be mitigated

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Cash flow support: Federal Government – Other tax measures

The Belgian tax shelter is a government-approved tax incentive designed to encourage the production of audiovisual works and performing arts in Belgium.

The conditions to fulfill the requirements of this tax incentive are eased by extending the expenditure periods

Impairment of trade receivables - COVID19 – circular letter

The 'Tax shelter' initiative

- Both for the audiovisual sector and performing arts the government allows more room for fulfilling the requirements and have extended the periods.

In practice

- Audiovisual sector: current term of 18 months (or 24 months in case of animated films) extended by 6 months
- Performing arts: current 24-month period extended by 6 months

Circular letter

- Circular letter confirms that the COVID-19 crisis can be considered as an exceptional circumstance, justifying the tax exemption for impairments of trade receivables for corporate income tax purposes.

In practice

- Impairment on trade receivables are only tax deductible if it can be demonstrated that they are well defined and probable based on the facts and circumstances.
- The circular letter states that the COVID-19 crisis can be effectively considered as a justification for such impairments.

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Liquidity and financing: Guarantee scheme for individuals and companies affected by the corona crisis - Federal measure

To safeguard funding for families, the self-employed individuals and non-financial businesses, the federal government, on the initiative of the Finance Minister and with the support of the National Bank of Belgium, has come to an agreement with the financial sector for a new guarantee scheme.

The scheme that has been agreed means that the government agrees to intervene with a total guarantee of €50 billion.

Who is eligible?

- All non-financial businesses;
- the self-employed; and
- mortgage borrowers struggling with payments as a result of the corona crisis.

What does it cover?

- Postponement of loan payments until 31 October 2020 without charge.
- Activation of a guarantee scheme for all new loans and credit lines with a maximum duration of 12 months, which banks provide to viable non-financial businesses and the self-employed.
- The aim is funding to the economy will be maintained.

How is it accessed?

- Both for requests made before 30 April 2020 and after, payment deferral can be obtained up to 31 October 2020
- Individuals or businesses that meet the conditions need to contact the bank.
- The National Bank of Belgium, together with Febelfin, will set up a monitoring system to monitor the guarantee scheme as well as the sector's commitments.

Practicalities/characteristics

- A total guarantee amount of €50 billion.
- All new additional loans and credit lines with a maximum maturity of 12 months (excl. refinancing loans) provided until 31 October 2020 will be covered by the guarantee scheme.
- Upon expiry of the guarantee scheme, the amount of losses incurred on loans under the guarantee scheme will be assessed.
- The burden will be shared between the financial sector and the public sector.
- The first 3% of losses will be borne entirely by the financial sector. For losses between 3% and 5%, 50% of the losses will be borne by the financial sector and 50% by the government. For losses higher than 5%, 80% of the losses will be borne by the government and 20% by the financial sector.

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Liquidity and financing: Measures from the insurance sector - Federal measure

The Belgian insurance sector reached an agreement for supporting measures.

Facilitated by the National Bank, with the backing of the FSMA and the Federal Government.

Insurance companies to provide flexibility towards customers in payment difficulties and aim to maintain insurance coverage.

Who is eligible?

- Individuals laid off temporarily because of the Covid-19 virus
- Companies affected by the Covid-19 crisis

What does it cover?

- Pension, death, disability and hospitalization under group insurance (contracted by employers): Payment of premiums due by employers deferred until 30 September 2020.
- Mortgage loans contracted with insurance companies: Suspension of interest and capital repayments as well as payment of premiums on mortgage protection insurance until 30 September 2020
- Home insurance premiums linked to mortgage loans falling due between 30 March and 30 September 2020: Payment deferral until 30 September 2020
- All other types of insurance: adequate solution on a case-by case basis

Companies:

- Insurances for accidents at work, third-party liability, etc.: subsequent premium adjustments in case of any reduction in business activity.
- Companies forced to suspend activities: payment deferral for all premiums falling due between 30 March and 30 September 2020.
- Loans granted to companies: loan repayment delay (interest and capital repayments) until 30 September 2020.

How is it accessed?

Natural persons:

- Pension, death, disability and hospitalization under employer group insurance: No further formalities
- Mortgage loans contracted with insurance companies, home insurance premiums linked to mortgage loans and other insurances: proof by insurance policy-holder of financial difficulties / loss of employment.

Companies:

- Insurances for accidents at work, third-party liability: adjustment made automatically.
- By agreement with their insurer.

Practicalities/characteristics

- Direct contact between insurance policy holder and insurance company required.
- As for loans granted to companies, the insurers will also follow the conditions already set for the banking sector (see previous slide).

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Liquidity and financing - Regional Measures

The COVID-19 crisis has forced all Belgian federated regional governments to take supporting measures.

The majority of these measures are meant to directly provide for financial aid or breathing space for affected sectors and businesses.

Flemish Government

- Extension of the existing "generic" guarantee scheme of the Flanders Participation Company for € 300 million, with a COVID-19 crisis guarantee of € 100 million to ensure that businesses and the self-employed can also have a bridging loan guaranteed for existing non-bank debts (up to 12 months).
- In addition, they pay a one-off lower premium: 0.25% instead of 0.5%.
- For Start-up loans and co-financing granted by Flanders Participation Company an automatic repayment deferral of capital and/or interest for three months (to be extended to six months if necessary).

Walloon Government

- Extraordinary Crisis Fund of €350 million:
  - €233 million to support SMEs and self-employed in the sectors affected by the crisis (e.g. catering, tourism, events), and this through a lump-sum compensation package;
  - €115 million to support the health and social sectors;
  - €2 million for local authorities to compensate for the support they provide to businesses and the self-employed.
- The regional investment vehicles SOWALFIN, SOGEPA and SRIW will provide a response to companies in cash flow difficulties through bank guarantees or loans, and this in close consultation with the banking sector.

Brussels Government

- €20 million support for cashflows of affected business' by granting government guarantees (via the Brussels Guarantee fund) for bank loans.
- A delegated assignment for "Finance & Invest.Brussels" agency with the possibility to grant loans at a lowered interest rate to core suppliers of the food and beverage sector, so as to allow them to allot extended deadlines of payment to the catering businesses. Catering businesses employing more than 50 employees can obtain a loan at a lowered interest rate.
- Moratorium on the repayment of loans granted by "Finance & Invest.Brussels" for affected companies.

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Other supporting measures – regional grants

All regional governments have put general supporting measures in place that provide for a cash stimulus for businesses forced to entirely or partially close during the COVID-19 outbreak

Other measures are aimed at alleviating strict conditions with regard to grants and subsidies.

Flemish region: SME Growth Subsidy: subsidy intended to help attract missing strategic knowledge/expertise within SMEs that is required to establish new growth.

- Measure has been extended to include strategic tipping point/ because of the Coronavirus.

In practice:

- Exploring new markets or revising the supply chain can be considered as such a tipping point to make a grant application.

Flemish region: Increased flexibility in terms of conditions for support measures and subsidies.

- For beneficiaries/applicants that as a result of the crisis, encounter difficulties to meet the deadlines set for certain subsidies.

In practice:

Eligible VLAIO-subsidies for such an extension are:

- Development projects, Research projects, STRES & STS applications, Ecology premium plus;
- Thematic ICON-projects, ICON-projects w.r.t. interdisciplinary cooperative research.
- Baekeland mandates, Innovation mandates (IM),

Flemish region: VLAIO R&D project grants: subsidy intended to boost innovative R&D projects.

- Covid-19 related project proposals will be treated as a priority.

In practice:

- R&D projects with an innovation, clearly helping to fight the Covid-19 impact.

Flemish region: Compensation premium

- A cash incentive specifically for businesses that remain open but have a large loss of turnover due to the restrictive measures are now receiving support.
- It is currently understood that this premium is aimed at the following sectors: event sector, (para) medical professions (i.e. dentists and physiotherapists), catering. We await further guidance on the exact sectors to be included.

In practice:

- € 3,000 premium.
- Loss of turnover of 60% in the period between March 14, 2020 and April 30 (compared to the same period last years).
- To be requested by an application at VLAIO.

Flemish, Walloon & Brussels Capital region: Nuisance premium

- A cash incentive specifically for businesses that are required to entirely close further to health decisions taken by the National Security Council.
- It is currently understood that this premium is aimed at the following sectors: food and beverage, lodging, travel and related activities, retail, and recreational and sports activities

In practice:

- Premium for businesses varies from € 2,000 – € 5,000 depending on the region and whether it concerns a full or partial closure.
- For the Flemish region, further 160€/day, in case of prolongation after April 4.
- Premium is tax exempt
- Upon request and subject to various regional conditions.
- Duration subject to the health & safety measures imposed by the National Security Council

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Employment support/HR – Temporary unemployment benefits due to the coronavirus

Measures implemented by the Belgian Government due to the coronavirus outbreak, have a significant financial impact on Belgian companies. Normally there are two distinct regimes of temporary unemployment, one regime for force majeure and one for a (temporary) lack of work due to economic circumstances.

On Friday 20th March, the Belgian government decided to drastically simplify the mechanism of temporary unemployment benefits to allow companies to suspend the employment of their workers during this crisis, while the latter receive unemployment benefits.

Who is eligible?

- All employees can qualify for temporary unemployment benefits, irrespective of their employment (no requirements with respect to prior employment for a specified period)

Practicalities

- The amount of the temporary unemployment benefit is increased to 70 % (instead of 65 %) of the last monthly salary (with a maximum of 2754.76 EUR).
- On top of this monthly temporary unemployment benefit, a supplement of 5.63 EUR a day (paid by the National Employment Service - RVA/ONEM).
- A professional withholding tax of 26.75 % will be applied to the unemployment benefit.
- A temporary unemployment benefit must be taken for the whole day (thus not possible to work in the morning and to be unemployed in the afternoon (or vice versa))
- Simplified regime will be applicable until 30 June 2020, provided that the precautionary measures are still in place (all to be considered as demands for the temporary unemployment regime for force majeure).

Support measures

- The new simplified regime of temporary unemployment was decided on Friday 20 March 2020, and from that date, all demands for temporary unemployment will be considered as demands for the temporary unemployment regime for force majeure.
- The examples provided by the administration related to "force majeure" have also been broadened vastly to include "companies which (partially) close because they do not have teleworking tasks for (all) their workers and who cannot respect the social distancing measures in the exercise of work and in the transport which they organize (for example, construction companies)." Are also included Belgian companies that have to stop their production process and can thus no longer employ their employees because some of their suppliers do not supply any more.

Administration

Administrative formalities - employers

- Submittal of an electronic application (ASR 5/DRS 5), to the local office of the RVA/ONEM. As to the reason for the temporary unemployment benefits, the employer only has to mention "Coronavirus".
- To be introduced via the website of the social security administration (http://www.socialsecurity.be/).
- The employer does no longer have the obligation to supply the specific control card for temporary unemployment, the C3.2A, to his employees.

Administrative formalities - employees

- Inform the trade union or the HVW/CAPAC, the Auxiliary Unemployment Benefits Service through the simplified C3.2A Corona form.

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Employment support/HR – Telework

One of the measures from the federal government to counter the Covid-19 virus is telework. Homeworking became mandatory for all companies that are able to make their employees work from home.

Telework offers many benefits and it can also be implemented immediately by creating the right policies.

Who is eligible?

- Telework measures are applicable to both employees and directors

Support measures

- *Providing IT material and internet by the employer*: If employees are also allowed to make personal/private use of this free provision, a flat-rate benefit in kind will be charged (PC: 72 euros/year, internet: 60 euros/year), subject to social security and taxation.
- *Work at home allowance:* to compensate for costs other than the internet (incl. costs for electricity, heating, purchase of office equipment,...)
  - up to a maximum of EUR 126.94 per month can be granted free of social security and tax as a cost proper to the employer.
  - If no structural basis for work at home is provided, a maximum of EUR 40 per month can be granted free of social security and tax as a cost proper to the employer.

Support measures

- *Reimbursment of the private PC and private internet by the employer*: employers who do not provide IT material and internet to the employees can reimburse part of the costs that the employees bear themselves for the purchase of a PC and internet that they use on a structural and regular basis for telework. The reimbursement must correspond to the professional use of this PC and the internet and can be granted tax-free and free of social security as a cost proper to the employer. If the amount reimbursed to the employee does not exceed EUR 20 of the effective cost of professional use of the PC and EUR 20 of the effective cost of professional use of the Internet, no additional proof is required. If more than EUR 20 is reimbursed per use, a double proof will be required for a tax-free refund:
  - the reimbursement is intended to cover costs proper to the employer;
  - the reimbursement was actually spent on such costs.

How is it accessed?

- If working from home is done on a structural basis it should be stated in the employment contract or work agreements.
- To grant the work at home allowance, a prior agreement must be concluded with the Ruling Commission.

Practicalities

- After discussions with the Ruling Commission, it was agreed to install a so-called FAST TRACK procedure, whereby the aforementioned approval can be obtained immediately under minimum conditions (formal but shortened application, temporary nature, no double use,...).

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Employment support/HR - Tax impact on cross-border workers and employee benefiting from the "expat" special tax concessions

Since homeworking becomes mandatory for all companies that are able to make their employees work from home, the Belgian tax authorities provided guidelines on new measures on the application of the Double Tax treaty in force with Luxembourg and the one with France.

The impact on the determination of the travel exclusion for Belgian employees benefiting from the Belgian special (expatriate) tax concessions is still under discussion.

Who is eligible?

- Cross-border workers benefiting from the provisions in the DTT Belgium-France and Belgium-Luxemburg
- Employees benefiting from the "expat" special tax concessions

Support measures?

DTT Belgium - France: Frontier worker regime

- The Belgian and French authorities considered that all characteristics of a "force majeure" situation (beyond control of the employer and the employee) are met under the exceptional measures associated with the Covid-19 and issued an additional protocol to the DTT Belgium and France.
- The presence of French frontier worker (i.e. employee residing in the French border zone, working in the Belgian border zone) at his home in France- to perform teleworking for the benefit of his Belgian employer - will not be taken into consideration for the calculation of the 30-day period.

DTT Belgium - Luxembourg : 24 days threshold

- In the same vein and based on a force majeure scenario, an agreement has been reached on taxation of cross border workers between Belgium and Luxembourg.

Travel exclusion for people benefiting from the "expat" status

- Belgian employees benefiting from the special tax concessions who returned to their home country to telework from their home country residence and who are still considered as tax resident in that jurisdiction - will in principle be taxed in their country of residence during the COVID-19 period (i.e. if they work from home in their country of residency), unless a special protocol or agreement would be made between both jurisdictions.
- In the situation where the expatriates are non-residents in both the country of origin and Belgium, the lockdown period will lead to a direct impact on the travel exclusion. Different approaches are currently being considered to reduce the impact of containment on the travel exclusion.

How is it accessed?

- French frontier workers teleworking from his residence in France will remain exclusively taxable in France during the COVID-19 crisis on the condition that they do not exceed the 30-day threshold excluding the "COVID-19" period.
- The homeworking days performed in Belgium by Belgian resident employees of Luxembourg companies will not be counted towards the 24-day threshold.

Practicalities

- Measures apply from March 14th, 2020 and are applicable until further notice.
- EY is in close contact with the Belgian tax authorities with regards to the impact of Covid-19 on the foreign travel exclusion. An official statement is expected to be received on or around the first week of April.

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Employment support/HR - Telework – An international social security perspective

More and more people are faced with travel restrictions and measures forcing them to work at home due to the coronavirus outbreak. For employees working in a cross-border situation, their extended mandatory presence in a specific country inevitably gives rise to questions about the impact on the applicable social security scheme.

Telework on Belgian territory due to the coronavirus will have no impact on the applicable social security scheme for as long as the Belgian Government's emergency measures apply.

Who is eligible?

- Frontier workers (i.e. employees living in an EEA Member State but working in another EEA Member State who are usually subject to the social security scheme of the country where they are working.
- Due to the increased (and often imposed) use of telework, many frontier workers may exceed this 25% threshold of working in their country of residence (generally assessed over a 12 month period) and could consequently be faced with a switch in social security coverage. For their employers, the change of applicable social security scheme would entail an impact on employment cost and a substantial increase in administrative efforts (e.g. registering with foreign social security authorities to make payments and declarations in the country of residence of the frontier worker).

Support measures?

- The Belgian authorities confirmed that the periods of telework performed in Belgium by frontier workers due to the coronavirus will exceptionally not be taken into account for the determination of the applicable social security scheme.
- As such, a switch to the social security scheme of the country of residence of the frontier worker (i.e. Belgium) can be avoided.

How is it accessed?

- The frontier workers' physical presence in Belgium between 14 March 2020 and 5 April 2020 will not be taken into account by the NSSO to determine the applicable social security scheme.

Practicalities

- No formalities need to be completed in this respect.
- The specific period will be extended in accordance with extensions of these emergency measures.
- This measure will capture the vast majority of the cross-border population which could be heavily impacted. Some very specific situations will still need to be reviewed on a case-by-case basis.

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Employment support/HR - Regional Measures

The COVID-19 crisis has forced all Belgian federated entities to take supporting measures. The majority of these measures are meant to directly provide for financial aid or provide breathing space for the affected sectors and businesses.

Flemish Government – 'Encouragement premium' for temporarily less work:

- The Flemish government has strengthened this existing premium. The premium also applies to employees of companies who suffer a substantial decrease of at least 20% of sales, production or orders in the month prior to the interruption of business (compared to the same month in the previous year).
  - The premium amounts to €68 and €172 per month and is paid as an additional amount on top of temporary unemployment benefits.
  - The employer must demonstrate this substantial decrease by drawing up a plan. He also has to give proof of the redistributive measures are being taken.
  - This extension only applies for the period 1/4/20 to 30/6/20. The application must always be made in full months.

For more information

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Administration - Corporate governance

The current circumstances might frustrate the ongoing governance and decision-making processes of companies.

Due to safety concerns and restriction measures, board meetings and shareholders' meetings can be hindered to take place.

However, there are several tools a company can make use of to overcome such difficulties with regard to the continuity of corporate decision making.

Board meetings in limited liability companies ("NV" and "BV"):

- No prescribed frequency at which a board shall hold meetings.
- Meetings on non-urgent items: could be postponed or cancelled if they cannot take place due to the COVID-19 restriction measures.
- Decisions that cannot be postponed (e.g. the drafting of the annual report and approval of the annual accounts) or are necessary in the interest of the company: several means by which a company could still hold a board meeting, whilst limiting the number of persons present in a physical meeting, or with no physical gathering at all.

Practical considerations:

- *Representation by proxy*: A director can grant a proxy to a colleague-director to participate and vote in his name
- *Remote (electronic) deliberating* (e.g. a video or conference call):
  - It should be ensured that all board members can interact and deliberate with each other in real time
  - For listed companies, electronic participation is even encouraged by the Corporate Governance Charter
  - Deliberations/decisions must always be recorded in minutes and signed by the chairman of the board meeting.
- *Written decision-making*:
  - the board can take all decisions unanimously in writing, except where the articles of association of a company exclude or restrict this possibility.

General meetings:

- At least one shareholders' meeting must be held annually, for the approval of the annual accounts and granting of discharge to the directors.
- To be held within six months after the end of the previous financial year, so for most companies the deadline will be 30 June in case the financial year ends on 31 December. Postponement is possible but the general meeting should at least be held prior to that date. If these would not be ready yet, the shareholders can again postpone the meeting but they should then take into account that the annual accounts must be filed with the Belgian National Bank within seven months after the closing of the financial year.

Practical considerations:

- *Representation by proxy*: a shareholder can grant a proxy to another shareholder to represent him/her
- *Remote (electronic) participation and voting*:
  - it should allow (i) all shareholders to be individually identified by the company, and (ii) for direct, simultaneous and uninterrupted access to the discussions during the meeting, to vote and to ask questions.
  - Items discussed have to be recorded in minutes (incl. technical incidents that have occurred during the meeting)
- *Written decision-making:*
  - Shareholders can also unanimously and in writing take all decisions within their competence, except for decisions that shall have to be recorded in an authentic deed.

For more information

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Global EY COVID-19 Stimulus Response Tracker

Our tracker provides a snapshot of the policy changes that have been announced in jurisdictions around the world in response to the COVID-19 crisis.

Policy changes across the globe are being proposed and implemented on a daily basis.

The document will be updated on an ongoing basis but not all entries will necessarily be up to date as the process moves forward.

Key jurisdictions covered by the Response Tracker include:

- Australia
- Austria
- Belgium
- Brazil
- Canada
- China
- Colombia
- Cyprus
- Czech Republic
- Denmark
- France
- Germany
- Greece
- Hong Kong
- Indonesia
- Italy
- Japan
- Luxembourg
- Malaysia
- New Zealand
- Norway
- Puerto Rico
- Singapore
- Slovak Republic
- Slovenia
- South Korea
- Spain
- Sweden
- Switzerland
- Taiwan
- Thailand
- Ukraine
- United Kingdom
- United States

To download the latest Response Tracker visit:

ey.com/en_us/tax/how-covid-19-is-causing-governments-to-adopt-economic-stimulus--

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