



COVID-19: EY Government Support Package The Netherlands

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COVID-19: EMEIA EY Government Support Package



The Dutch government has decided to implement a series of economic measures designed to protect people's jobs and livelihoods and to minimize the impact on self-employed people, small and medium-sized enterprises and major companies.

The Dutch government indicated that under the announced measures, billions of euros will be invested into the economy every month, for as long as necessary. According to the government, the measures will ensure that companies are able to pay their employees' wages, grant a bridging arrangement for self-employed people and allow companies to manage cash through relaxed tax provisions, allowances and supplemental lines of credit.

Areas being addressed:

1. Providing liquidity through financing schemes
2. Helping employers to protect jobs
3. Cash-flow support, including tax deferrals
4. Administration, including governance
5. Legal considerations, including contract and labor law considerations

These aims are primarily being delivered through:

- ▶ Central Dutch government and the banking system in terms of the guarantees and financing schemes that have been announced;
- ▶ The central tax system (covering cash tax deferral and employment support) as well as the municipal tax system (for self-employed workers and entrepreneurs); and
- ▶ The Customs Authorities in relation to the relaxation of customs regulations and compliance (however note the additional export requirements for companies involved in the production of personal protective equipment).

Dutch Government announced responses

Liquidity and financing

- Extension of the SME credit guarantee (BMKB) scheme.
- Extension of the Credit Guarantee scheme for Agriculture (BL).
- Extension of the business loan guarantee scheme (GO Facility).
- Addition of the GO-C Facility to further extend government support with state guaranteed loans.
- The government supports microcredit provider Qredits with EUR 25 million (increased from EUR 6 million).

- Extension of the export credit insurance facility.
- Bridge loan guarantees for small companies (KKC)
- Extension of the Dutch Trade and Investment Fund (DTIF) to include predelivery advances.
- Bridge Loan for non-bank financed companies through Regional Development Agencies
- No phasing out of existing schemes Groeifaciliteit
- Deferred payment for users of Early Phase credits and Innovation credits

Cash flow measures

- Possibility in the CIT to form a 'fiscal corona reserve' in fiscal year 2019.
- Possibility for substantial interest holders to reduce the normal wage.
- Payment deferral mortgage obligations.
- Three months deferral of tax payments for wage tax, personal income tax, Health Insurance Act, corporate income tax, VAT, gambling tax, insurance tax, landlord tax, environmental taxes (a.o. energy tax, coal tax, waste tax), excise and similar taxes of the Dutch Caribbean.
- Reduction of tax and collection interest to 0.01%.
- Deferral of settlement of energy tax and SDE

Administration

- Administrative penalties for late payment of wage taxes or VAT will not be imposed or waived if imposed.
- Administrative penalties for late payment or late compliance with excise and customs duty regulations will not be imposed or waived if imposed.
- Several measures relaxing wage tax and labour tax compliance requirements have been announced as well as several measures relaxing the strict customs compliance requirements.
- **Relaxation of the hours**

Employment support

- Temporary Emergency Bridging Measure for Sustained Employment ("NOW"); Emergency fund to compensate salary costs for businesses that expect a 20% decrease of turnover.
- Working from home will not be taken into account for determining the 25% condition for social security purposes.

- The Netherlands agreed on taxation of employment income for cross border commuters
- Tax exemption for IT equipment and related costs, and office equipment required for health and safety purposes for employees working from home.
- More tax free work-related costs budget.

Welfare

- Compensation payment of EUR 4,000 to certain businesses in affected sectors ("TOGS").
- Compensation self-employed professionals to the social minimum ("Tozo").

workers.

Legal

- Consideration of non-performance contractual obligations by invoking force majeure, unforeseen circumstances or the principle of reasonableness and **fairness to find some relief from obligations.**
- **Postponement implementation legislative proposal excessive borrowing from own company.**

Financing: BMKB: Guarantee scheme SME loans / *BMKB: Borgstelling MKB-Kredieten*

Last update: 30 April 2020

The Ministry of Economic Affairs and Climate (EZK) has established a guarantee scheme for SMEs on loans from certain participating banks.

Until 16 March 2020, the guarantee loan will be up to 50% of the total credit, from 16 March this has temporarily been increased to 75%.

Currently there is no end date for this program, or the extension of the guarantee.

On 8 April 2020 the government has increased the available budget from €765m to €1.5bn.

Who is eligible?

Small or medium enterprises, i.e. those that meet the following conditions:

- ▶ Companies with a maximum of 250 employees
- ▶ Companies with yearly revenues below €50m
- ▶ Companies with a balance total below €43m

The following sectors have their own supportive measures and so are not eligible:

- ▶ Individuals,
- ▶ Agriculture, fishery,
- ▶ Public healthcare,
- ▶ Financial services, and
- ▶ Real estate

What does it cover?

The government guarantee is up to 90% of the total guarantee on the loan. The other 10% is backed with a personal guarantee from the shareholder.

Aims to support SMEs that cannot offer the financier enough collateral.

The scheme also applies to bridging loans and overdraft facilities with a term of up to 4 years (update 29Apr).

The government will charge commission to the bank at a rate of 2% (update per 8Apr) for maturities up to and including 8 quarters, which will then be passed on to the borrower.

How is it accessed?

SMEs can apply for a loan from one of the participating banks who then apply to the government. Currently, these are ABN AMRO, Deutsche Bank, ING, Rabobank, Riverbank and Triodos Bank.

On 8 April 2020 the government opened this facility also for non-bank financiers who need to be accredited.

Practicalities

Companies will need to consider the implications for the future and whether they currently need the increased loans. Currently there is no end date for this programme.

More expensive than ordinary lending due to the government margin charged on top of usual interest rate.

Entrepreneurs need to submit a personal guarantee for the remaining 10% of the scheme.

Companies need to provide a forecast and rationale for the banks to take on board the 25% of the loan which is uncovered.

Payments of dividends will be restricted whilst the guarantee loan is in place.

For more information

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Financing: GO: Guarantee Enterprise Financing / GO: Garantie Ondernemingsfinanciering

Last update: 30 April 2020

The EZK has a guarantee scheme, the GO facility, for large companies, The GO allows banks to receive a 50% state guarantee on medium and large loans of up to €50m million, with a minimum of €1.5m.

From 26 March 2020 the EZK has temporarily increased the size of individual loans which can be guaranteed under the regular GO facility and GO-C facility combined, from €50m to €150m, in response of the Coronavirus outbreak.

The total available pool from which guarantees will be granted has increased from €200m to €10bn as of 8 April 2020. This pool is used for regular GO financing as well as GO-C financing.

Who is eligible?

The following conditions must be met:

- ▶ Companies with substantial activity in the Netherlands
- ▶ Companies with no outstanding breach of covenants
- ▶ The financing qualifies as Fresh Money (i.e. new line of credit provided by the bank).
- ▶ No significant equity distribution in the 12 months before the application
- ▶ Could be used for capex and/or

The following sectors have their own supportive measures and so are not eligible:

- ▶ Agriculture, fishery
- ▶ Public healthcare
- ▶ Financial services
- ▶ Real estate
- ▶ Individuals

What does it cover?

For companies facing difficulties in attracting bank loans.

Loans (and potentially also RCF) with a term of up to 8 years.

The GO allows banks to receive a 50% state guarantee on medium and large loans. Loans of up to € 50 million are guaranteed up to a maximum of € 25 million.

Guarantee premium is part of Interest Margin and paid by the bank to the government.

How is it accessed?

Companies can apply for this through one of the banks who will apply at the government. Currently, those banks are ABN AMRO, Bank of Tokyo-Mitsubishi UFJ, BNP Paribas, Deutsche Bank, ING, NIBC, Rabobank, Riverbank, Royal Bank of Scotland, Société Générale and Triodos Bank.

Potentially other European banks can apply this scheme if approved by the Ministry of EZK .

The existing GO Facility runs until 31st of May 2020.

Practicalities

Usually the process for approval takes 2 - 3 weeks on top of a regular banking process.

Early pre-payment of this guarantee is possible only with make-whole penalties.

There may be restrictions on future dividend payments whilst these loans are in place.

Banks will make a case-by-case assessment, requiring usual information on business plan/forecast.

The maximum of €150m applies to all EZK subsidies, including the GO-C facility, the GO-ETFF and the Growth facility and applies to the company group as a whole.

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Financing: GO-C: Guarantee Enterprise Financing / GO-C: Garantie Ondernemingsfinanciering Corona

Last update: 30 April 2020

Following the COVID-19 outbreak, the EZK has announced to extend the existing GO facility with the GO-C facility.

The GO-C provides *additional* 80% or 90% state guarantee on medium and large loans, on top of the existing GO facility, for loans with a value between €1.5m and €150m. The percentage of the loan guarantee depends on the size of the company. The maximum of the loan guaranteed is determined by the lower of: (i) 2x FY2019 personnel expenses, (ii) 25% of the FY2019 revenues or (iii) liquidity gap for the coming 12 or 18 months underpinned by a liquidity forecast.

The total available pool for GO and GO-C has increased from €200m to €10b as of 8 April 2020.

Who is eligible?

Companies that meet the following conditions:

- ▶ Substantial activity in the Netherlands
- ▶ No outstanding breach of covenants (before 1 March 2020)
- ▶ The financing qualifies as Fresh Money (i.e. new line of credit provided by the bank). A bridge or emergency line could also qualify as Fresh Money after pre-approval
- ▶ No significant equity distribution in the 12 months before the application

The following sectors have their own supportive measures and are therefore not eligible:

- ▶ Public healthcare
- ▶ Financial services
- ▶ Real estate
- ▶ Individuals

What does it cover?

Loans (and potentially also RCF) with a term of up to 6 years.

80% state guarantee for large companies (>€50m revenue, >250 FTE or a balance sheet total of over €43m).

90% state guarantee for SMEs (<€50m revenue, <250 FTE or a balance sheet total below €43m).

Loans with straight line quarterly repayments (no balloon allowed) with a grace period of 12 months (large companies) or 18 months (SME).

Existing debt obliged to defer repayments 6 months minimum (no obligation for club deals/syndicates).

Margin and arrangement fees t.b.c. by banks.

How is it accessed?

Companies can apply for this through one of the banks who will apply at the government. Currently, participating banks are ABN AMRO, BNP Paribas, Deutsche Bank, ING, NIBC, Rabobank and Triodos Bank. Other European banks may be eligible for this scheme if approved by the Ministry of EZK.

Financiers can apply for the extended GO-C facility until 15 December 2020 on a first-come, first-served basis.

Practicalities

The extension of an existing GO facility into a GO-C facility will be approved by the government within 1 week after application by the financier.

Purpose of the loan should be working capital, maintenance capex and/or a liquidity gap as a result of COVID-19.

Early repayment of this guarantee is possible without make-whole penalties.

There may be restrictions on future dividend payments whilst these loans are in place.

Banks will make a case-by-case assessment, requiring usual information on business plan/forecast.

Banks have to arrange additional security on a best effort basis and to the extent possible, i.e. a shareholder guarantee.

The maximum of €150m applies to all EZK subsidies, including the regular GO facility, the GO-ETFF and the Growth facility and applies to the group company as a whole.

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Financing: KKC: Small Credit Corona /

KKC: Klein Krediet Corona

Last update: 8 May 2020

On 8 May 2020, EZK has announced a new support measure called Klein Krediet Corona (KKC; Small Credit Corona) aimed at micro-, small- and medium-sized companies/entrepreneurs.

€750m in bridge loan guarantees will be made available for companies with a small financing need (€10k up to €50k).

The Dutch government provides guarantees of 95% (€713m) on loans with a maximum interest of 4% provided by banks and other accredited financiers.

The KKC is still pending for approval by the European Commission.

Who is eligible?

The KKC is intended to facilitate 'fundamentally healthy' companies with sufficient ability to repay the loan.

To be eligible for the KKC, entrepreneurs must meet the following criteria:

- ▶ Minimum revenue of €50k
- ▶ Profitable business prior to the COVID-19 outbreak
- ▶ Registered with Chamber of Commerce (KvK) since 1 January 2019

What does it cover?

KKC provides 95% state guarantee on loans with a:

- ▶ Value between €10k and €50k
- ▶ Maturity of max. 5 years
- ▶ Interest of max. 4%

How is it accessed?

Companies can apply for the KKC through Rabobank, ABN AMRO, ING, de Volksbank and Triodos, as well as other financiers accredited for the BKMB-C.

Practicalities

Entrepreneurs making use of the KKC have to pay the government a one-off commission of 2%.

Rabobank, ABN AMRO, ING, de Volksbank en Triodos have indicated to provide loans under the KKC. Other financiers accredited for the BKMB-C are also eligible to provide loans under the KKC.

The KKC is still pending for approval by the European Commission; the Dutch government is aiming to make the KKC available as per mid-May.

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Financing: Guarantee scheme agricultural loans / *BL: Borgstellingskrediet Landbouw* and Qredits

Last update: 30 April 2020

The Ministry of Agriculture, Nature and Food Quality (LNV) has expanded the guarantee scheme for working capital under the Guarantee scheme for agricultural loans (BL, BL-Plus and VVK), to include a bridge loan guarantee, the BL-C, for agricultural, fishing and aquaculture businesses.

The EZK introduced additional support in the form of loan repayment deferral and a significant interest discount for current borrowers of Qredits, a provider of microcredits to start-ups and small businesses.

Who is eligible?

BL-C is currently available for Dutch, going concern, agricultural businesses ('land en tuinbouw') that are affected by COVID-19.

As per an announcement on 14 April, the BL-C scheme is also available for fishing and aquaculture (production and processing) businesses, retrospectively from 18 March 2020.

BL-Plus is an additional facility for companies focusing on durability or innovation and VVK is for asset enhancing credits, i.e. shortly after a takeover or the start of a business.

What does it cover?

The BL facility supports healthy businesses to secure additional working capital by providing guarantees to banks.

	Max. loan	% guarantee	Commission
BL-C	€1.5m	70%	0.5-1.5%
BL	€1.2m	70%	3.0%
BL Plus	€2.5m	70%	3.0%
VVK	€2.5m	90%	1.0%

Max. term of 2 years for the temporary BL-C, 6 years for BL and 12 years for VVK/BL-Plus. Either a linear or bullet repayment schedule.

Practical considerations

Applications are now open (including bridge loan) until 31 March 2021.

Companies can apply for this through one of the banks who will apply at the government. Currently, those banks are ABN AMRO, Deutsche Bank, ING, NIBC, Rabobank and Triodos Bank.

Potentially other European banks can apply this scheme if approved by the Ministry of LNV.

Who is eligible?

6,000 entrepreneurs who are clients and already have credit.

In addition, Qredits hopes to provide bridging loans to 2,000 SME and freelancers in the short term. This may be partly existing Qredits entrepreneurs and partly new Qredits clients for bridging credit, who already have a (bank) loan elsewhere.

What does it cover?

Qredits provides liquidity support in the short-term for small businesses and freelancers in need of capital.

For new SME businesses: Standard application procedure, i.e. assessment of business plan, prior year financials and forecast.

- ▶ or existing clients: Postponement of repayment for 6 months and interest rate reduced to 2% during this period.

Practical considerations

Companies will need to review how to demonstrate their credit strength. Interest margin depends on the size of the loan and ranges from 7.75%-8.75%.

Accessed by contacting Qredits' emergency line directly.

On 8 April additional budget for Qredits was announced to provide new loan facilities against lower interest. Details t.b.c.

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Financing: Additional support measures announced – details to be confirmed

Last update: 30 April 2020

The EZK has announced a number of additional measures on 7 April 2020, mainly aimed at supporting companies for which earlier measures did not provide an adequate solution, such as mid-sized and large enterprises, and companies financed with (external) equity who are unable to receive bank financing (incl. startups and scale-ups). Exact details are still to be announced.

What does it cover?

Several additional support measures have been announced, including:

- ▶ Bridge loan for non-bank financed companies (COL)
 - ▶ Government budget €100m
 - ▶ Loans from €50.000 to €2m
 - ▶ Margin: 3%
 - ▶ Maturity: 3 years, with possible future extension
 - ▶ Early pre-payment possible without penalties
- ▶ Postponed phasing out of the Growth Facility (Groeifaciliteit, GF), a facility that provides financiers a 50% guarantee on subordinated loans and shares of investment firms, by 1 year to 1 July 2021
- ▶ Deferred payment of interest and debt redemption on Early Phase Financing (Vroegefasefinanciering, VFF) and Innovation Credit (Innovatiekrediet, IK) by 6 months (1 April until 1 October 2021)

Who is eligible?

The measures are mainly aimed at mid-sized and large enterprises, and companies financed with (external) equity who are unable to receive bank financing (incl. startups and scale-ups). Conditions are to be announced.

- ▶ Non-bank financed companies who are impacted by COVID-19 and who are financed with (external) equity or venture capital (incl. startups and scale-ups), and SMEs financed with retained earnings
- ▶ The following are excluded: Retail, Catering industry, Small business services and Freelancers
- ▶ Current users of the Growth Facility (GF)
- ▶ Current users of the VFF and IK (innovative and early-stage entrepreneurs) that are affected by COVID-19

Practicalities

Practical considerations are still limited and will follow when detailed plans are announced.

- ▶ Financing will be provided through regional development agencies ('ROMs')
- ▶ For loans < €50.000 businesses can apply at Qredits

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Last update: 28 April 2020

The COVID-19 extension of tax payments is a tax measure that allows companies that have or are expected to have payment problems caused by COVID-19 to defer tax payments regarding CIT, PIT, Health Insurance Act, VAT, wage tax, gambling tax, insurance tax, landlord tax, environmental taxes (a.o. energy tax, coal tax, waste tax) and excise (including those on non-alcoholic beverages).

For customs duty and other import taxes (VAT, excise duty and coal tax), no special payment extension program is available.

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Who is eligible?

All companies that have or are expected to have payment problems caused by COVID-19.

How is it accessed?

CIT, PIT, Health Insurance Act, VAT, wage tax: after receiving a tax assessment (of either one of the mentioned taxes), the request can be filed with the Dutch tax authorities using a central P.O. box or digital form. The request applies automatically. One request is sufficient to request deferral of payment.

Gambling tax, insurance tax, landlord tax, environmental taxes and excise duties (coal tax and excise duty only domestic transactions): receiving a tax assessment, the request for that concerning tax assessment can be filed with the Dutch tax authorities using a central P.O. box or digital form. The request applies automatically.

Customs duty and other import taxes: no special payment extension program available, but the regular payment extension program may be applied for.

What does it cover?

For CIT, PIT, Health Insurance Act, VAT, wage tax, gambling tax, insurance tax, landlord tax, environmental taxes and excise duties:

- ▶ The Dutch tax authorities will automatically grant a payment extension for 3 months to cover any outstanding or future tax assessments within this period.
- ▶ Collection interest of 0.01% will be charged in this period.
- ▶ For self-assessed taxes penalties for non/late payment will be waived when the extension is requested.

For customs duty and other import taxes:

- ▶ The Dutch customs authorities may grant an extension of payment deadlines up to the 15th day of the month following the month in which these measures end.
- ▶ Payment extension should however be accompanied by setting a corresponding bank guarantee
- ▶ The bank guarantee requirement may only be waived in case of severe economic or social distress and will be reviewed on an individual basis

Practicalities

We strongly recommend engaging with the authorities before a payment becomes late wherever possible.

The Decree indicates that a request for payment extension for tax periods ending after February 1st, 2020 will in principle also be considered as a timely filed notice 'unable to pay'. The notice 'unable to pay' will be considered valid, unless with hindsight the inability to pay was not mainly caused by the impact of the Covid-19 virus.

Companies will need to consider whether an extension of more than 3 months is needed.

If so, they will need to prepare in order to be able to send additional information.

- When the total outstanding amount of taxes due is lower than EUR 20,000, information needs to be provided from which it is clear that the revenues decreased significantly compared with previous months.
- When the total amount of taxes due is EUR 20,000 or more, a declaration from a third-party expert is needed in which is stated that the financial problems are mainly caused by COVID-19.

Last update: 28 April 2020

The Government has announced a reduction of tax and collection interest to 0.01% to provide financial support.

Tax and collection interest

The reduction of tax and collection interest is introduced as a tax measure to provide financial support to companies that have or are expected to have payment problems.

However, since this reduction applies to all taxes, we expect that all taxpayers who are liable to Dutch taxes are eligible to these reduced interest rates.

Practical considerations

From 23 March 2020 collection interest is reduced from 4% to 0.01%.

Tax interest will be reduced from 4%/8% to 0.01% for all taxes. This has effect from 1 July 2020 for PIT and 1 June 2020 for all other taxes.

These reductions will be applied automatically.

Please note that the Dutch government proposed to lower the tax interest and collection interest to 0.01% for three months. According to the decree this will not apply to collection interest in case of a refund of collection interest by the Dutch tax authorities to the taxpayer. In case of a refund of collection interest, the regular rate applies which amounts to at least 4%.

The collection interest rate is also relevant to determine the discount in case certain tax payments are made at once (in Dutch 'betalingskorting').

In case the amount of the discount is set at close to nil due to the lowered rate to 0.01%, taxpayers can file an objection. The discount will then be determined based on the collection interest rate of at least 4%. This is applicable as of March 23, 2020

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Last update: 28 April 2020

The Government allows energy suppliers and taxable users to settle the energy tax and surcharge durable energy and climate transition (SDE), inclusive of VAT, with respect to the supply respectively usage of natural gas and electricity for the months April, May and June 2020 at a later time than usual but no later than 1 November 2020 under certain conditions.

Deferral of settlement energy tax and SDE

After consultation with the energy suppliers, the Government approved that the energy suppliers are allowed to settle the energy tax and the SDE, inclusive of VAT, for the supply of natural gas and electricity in the months of April, May and June 2020, at a later time than usual but no later than 1 November 2020.

This approval applies in four situations.

The first two situations basically concerns supplies for which the energy supplier does not invoice advance payments or, if nevertheless invoices for advance payments, the reconciling invoice relates to a calendar month. The basic principle here is that the energy supplier does not charge energy tax and SDE, inclusive of VAT, to the concerning customers for supplies in April, May and June 2020.

The third situation concerns – in short – supplies for which the energy supplier does not invoice.

Finally, the fourth situation concerns – in short – situations in which the usage of electricity and/or natural gas is taxed instead of the *supply*, for example the use of self-generated electricity.

Practical considerations

Please note that when a taxable person does not meet the conditions for this arrangement, he can still request for deferral of payment of energy tax and SDE as described in slide 8.

For more information

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Last update: 28 April 2020

The government introduced a measure in order to effectively carry-back expected losses in 2020 to 2019.

Other than the government measures, it may also be possible to reduce a preliminary tax assessment in order to improve liquidity.

Corona-reserve

In determining the taxable profit for 2019, companies will be able to take into account a loss they expect to incur in fiscal year 2020.

This loss compensation can normally only take place upon filing the 2020 Dutch corporate income tax return, which will be no earlier than early 2021.

The Dutch Government will make it possible for companies to deduct the expected loss due to the COVID-19 crisis for the year 2020 from the taxable profit of 2019 as a 'corona-reserve'. When you already paid a preliminary corporate income tax assessment 2019, this measurement results in a direct tax refund.

The corona-reserve may not exceed the 2019 profit before considering the reserve. In addition, the corona-reserve may not exceed the expected loss as a result of the COVID-19 crisis in 2020.

Preliminary tax assessment

If companies which have received and paid a preliminary tax assessment for 2020 (CIT/PIT) now expect lower profits in 2020 as a result of COVID-19, it may be possible to amend the preliminary tax assessment and get a refund of tax already paid.

Practical considerations

We do note that the loss expecting to incur in 2020 needs to be determined carefully. If the amount of the expected loss is larger than the amount of the final loss determined in the tax return of 2020, the corona-reserve taken into account in the 2019 corporate income taxation will be amended. This will result in corporate income tax 2019 due with possible calculation of tax interest.

Practical considerations

Penalties can be imposed for deliberately providing incorrect or incomplete information when requesting a preliminary tax assessment or a revision of a preliminary tax assessment.

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Last update: 28 April 2020

The government introduced three personal income tax measures to mitigate unwanted consequences due to the corona-crisis.

Relaxation hours criterion

Entrepreneurs who are liable to income tax can, under certain conditions, claim various entrepreneurial facilities. Some of these entrepreneurial facilities, such as the self-employed tax deduction (“*zelfstandigenaftrek*”), can only be claimed if the ‘hours criterion’ is met. This hours criterion is in principle met when the entrepreneur spends at least 1225 hours (for start-ups 800 hours) per calendar year on activities for his business. To prevent entrepreneurs from losing the right to claim these facilities, the Dutch Tax Authorities will assume that these entrepreneurs have spent at least 24 hours (for start-ups 16 hours) a week on their business during the period 1 March 2020 to 31 May 2020, even if they did not actually spend those hours.

For entrepreneurs who have seasonal work, such as festival industry, the Dutch Tax Authorities will assume during the period 1 March 2020 to 31 May 2020 that these entrepreneurs have spent the

Payment deferral for mortgage obligations

Lenders such as banks are offering customers that are temporarily unable to meet their payment obligations the option of deferring the payment of interest and repayment of the principal amount for up to six months. Under current legislation, mortgages that are subject to a tax repayment obligation must be repaid by 2021 at the latest if a deferral of payment was provided in 2020. The government introduced a measure to retain the right to deduct interest of the mortgage by two means:

1. The repayment arrears can be (directly) spread over the remaining term of the mortgage (of maximum 360 months).
2. Alternatively, a customer can choose to split his remaining loan. This means that the maximum of six months in repayment arrears does not necessarily have to be spread over the full remaining term. Instead, the repayment can be made within, for example, five years.

The government is examining how and under what conditions the measure may also apply to loans for which the tax repayment obligation does not apply and for loans that have been provided by a person other than a creditor with a documentation obligation, such as a loan from an own BV or a family member.

Postponement proposal excessive borrowing from own company

The legislative proposal excessive borrowing from an own company (“*Wet excessief lenen bij eigen vennootschap*”) will be postponed for one year until 1 January 2023. The proposal regards the taxation of the debts of an individual business owner owed to the own company that are higher than €500,000 (excluding qualifying owner-occupied home debt). By postponing the entry into force by one year until 1 January 2023, individual business owners have until 31 December 2023 (first reference date) to anticipate the legislative proposal.

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Last update: 28 April 2020

The Dutch Customs Authorities have announced a number of administrative measures to provide relief from strict customs related compliance.

The Dutch Customs Authorities have also installed both a customs duty exemption for imports, and a mandatory export license for exports, for companies trading in personal protective gear.

Who is eligible?

- ▶ All companies involved in excise and customs duty payments and licenses for the general measures
- ▶ Companies holding a preferred trader license, i.e. an Authorized Economic Operator (AEO) license for AEO specific measures
- ▶ Companies trading in personal protective gear for the import duty exemption and export license measures

What does it cover?

For all companies:

- ▶ Late compliance may be excusable, decided on a case by case basis
- ▶ Flexible approach to penalties for late payments or late compliance
- ▶ Pro-forma objections (i.e. without details on why the request is made) and refund requests allowed; may be possible to file late

For license holders:

- ▶ Individual exceptions for companies not meeting the standard requirements for denatured alcohol if used for medical disinfectant gels
- ▶ Reduction or full exemption of bank guarantees
- ▶ Extension of current license applications that cannot be completed
- ▶ Tailored treatment of urgent requests for licenses (based on individual circumstances)
- ▶ Leniency towards companies that cannot comply with the financial solvency requirements in relation to AEO licenses

For traders in personal protective gear:

- ▶ A customs duty exemption (0%) for the import of personal protective gear is conditionally available.
- ▶ A license for the export of personal protective gear is required to be obtained prior to export.

Practical considerations

Companies will first need to consider if they are in need of one or more of the reliefs and the timing/procedure to apply.

The customs duty exemption for the import of personal protective gear is accessed via the regular customs declaration procedure.

The export license for export of personal protective gear can be requested through a standard form available on the DCA website and must be obtained prior to the export.

All other measures are based on individual circumstances and should be accessed/discussed by contacting the relevant DCA officers.

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Last update: 13 May 2020

The Dutch Ministry of Finance have issued a Decree that provides for tax concessions to alleviate the effects of battling the COVID-19 virus.

Under this Decree, the measures regarding the supply of staff and Covid-19 medical supplies are applicable/in force from 16 March 2020 up to and including 16 June 2020. The measure regarding the application of the lower VAT rate is applicable from 16 March 2020 until the obligatory closure ends. Another Decree allows businesses to apply a VAT exemption with credit (zero rate) to supplies of (medical and non-medical) surgical masks from 25 May 2020 until (at least) September 2020.

1. No VAT on the supply of medical staff

Who is eligible?

- ▶ All companies involved in the supply of medical staff to hospitals and other designated (medical) facilities.

What does it cover?

The measure applies to all business supplying staff to the designated facilities, as long as the following requirements are met:

1. The medical staff is supplied to certain well-defined organizations and institutions;
2. The supplier must include the use of this special measure on his invoices and ensure that it is included in his records; and
3. The consideration for the supply cannot exceed the gross labour costs plus a maximum of 5% for admin.

Practical considerations

The exempt turnover generated by the supply of staff under this approval does not affect the VAT deduction position of the supplier.

2. No VAT on the free supply of medical equipment/goods

Who is eligible?

- ▶ All companies involved in the free supply of Covid-19 medical supplies.

What does it cover?

For all companies:

- No VAT is due on the free supply of Covid-19 medical supplies as included in an addendum to the Decree. The addendum is based on the 'HS classification reference for Covid-19 medical supplies' as published by the World Customs Organization and as valid on the date of publication of the Decree.
- Here's a [LINK](#) to the addendum
- Here's a [LINK](#) to the WCO List

Practical considerations

A condition for applying this measure is that the costs of the Covid-19 medical supplies are treated as 'general costs' for VAT deduction. Invoices for the free supplies have to mention the application of this special scheme and it has to also be clear from the records.

3. Supply of (medical and non-medical) surgical masks VAT exempt with credit

Who is eligible?

- ▶ All businesses selling such masks

What does it cover?

The measure applies to all supplies of medical and non-medical surgical masks. The VAT exemption with credit is applicable to supplies from 25 May 2020 until (at least) September 2020.

4. Lower VAT rate for online sports classes by fitness centers

Who is eligible?

- ▶ All fitness centers/gyms and similar businesses

What does it cover?

The measure applies to all fitness centers and similar businesses that offer paid on-line classes. Even though technically the lower VAT rate only applies to granting admission to these classes, the Decree allows the application of the lower VAT rate (currently 9%) to on-line sports lessons as well.

For more information

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Last update: 22 April 2020

The Dutch government announced a new temporary measure to help mitigate the financial consequences of Covid-19 for employers, and stimulate keeping employees employed during this time: the Temporary Emergency Bridging Measure for Sustained Employment (Tijdelijke Noodmaatregel Overbrugging voor Werkgelegenheid), also referred to as the 'NOW'.

The old regulation regarding working time reduction has been withdrawn with immediate effect. All requests already submitted under the old regulation will automatically apply for the new measure.

Who is eligible?

Companies who suffer or expect to suffer a minimum of 20% loss of turnover due to COVID-19.

The loss in turnover is measured by comparing the current turnover with a quarter of the turnover in the calendar year to 31 December 2019.

It is not necessary to demonstrate that the loss of turnover was caused by government intervention and/or public order measures. The loss of turnover should arise during a period of three subsequent months, starting on 1 March, 1 April or 1 May 2020.

Companies must continue to pay 100% of salaries. Employees should continue to receive their full wages. The measure is also applicable for employees without a fixed agreed number of hours in their employment contract (e.g. zero-hours contracts).

If a company is part of a "group", the (loss of) turnover of the entire group is the basis for the NOW application. On April 22, 2020 the Dutch government announced a modification. If a group has incurred a loss of turnover of less than 20%, an operating company with at least 20% loss of turnover may also apply for NOW. Additional conditions apply, such as the group declares not to pay any dividend or bonuses over 2020 or to purchase its own shares.

What does it cover?

The amount of the allowance depends on the loss of turnover and can be up to 90% of employee wages, i.e. with a loss of turnover of 50%, the allowance is 45% of the wage costs, etc.

The measure initially applies for a period of 3 months.

The NOW does not affect the accrued unemployment benefit rights of employees.

After an application, the employer will receive a payment in advance of at least 80% of the expected total allowance. The actual loss of turnover is determined subsequently.

How is it accessed?

Eligible companies can request a compensation in employee wages for a period of 3 months at the UWV (the Dutch Employee Insurance Agency).

The relevant authorities aim to ensure that applications can be submitted as from 6 April 2020.

The first payments should then be made within 2 to 4 weeks following the date of application.

Practicalities

Employers will need to inform the works council, staff representation or employees about the NOW application.

Employers will need to substantiate the loss of turnover.

Employers must submit a statement from an accountant for "larger" applications (the threshold for this is still to be determined).

At present the reimbursement can be granted for a period of 3 months. An extension with another 3 months is possible, but likely subject to other conditions.

During the period in which the employer receives the allowance, employers dismissing employees for business economic reasons risk a penalty.

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Last update: 28 April 2020

The Compensation self-employed persons* (Tijdelijke overbruggingsregeling zelfstandige ondernemers) concerns temporary support for self-employed workers so they can continue their business.

The new regulation applies as of 1 March 2020, for a period of 3 months.

***also available for other entrepreneurs / DGA's under certain conditions**

Who is eligible?

Self-employed workers whose businesses are affected due to COVID-19 and who do not earn the social minimum income anymore.

Eligible for the compensation are the self-employed workers who:

- ▶ Are over 18 years;
- ▶ Are Dutch residents with a Dutch resident company;
- ▶ Are registered at the Chamber of Commerce;
- ▶ Started their business prior to 17 March 2020 at 18.45pm;
- ▶ Work at least 1,225 hours per annum for their business/profession;
- ▶ Reside in the municipality where they apply for the additional support.

The regulation also applies for other entrepreneurs who meet the following requirements:

Working at least 1125 hours per annum for their business;

- ▶ Have full control/ownership of the company and be liable for the companies' financial risks;
- ▶ Are unable to pay wages.

What does it cover?

Self-employed workers can obtain a **welfare benefit** for a 3-month period payable on a monthly basis;

The **benefit** is capped at the social minimum income of €1,500 net (married) and €1,050 net (individuals).

An advance payment is possible.

How is it accessed?

The scheme will be executed by local municipality (an application form will be made available shortly)

The total compensation depends on the personal position (e.g. household composition) and applicants may be requested to provide further insights on family composition;

Additional information on the company may be requested.

Applicants should declare that their income for the application period, does not meet the social minimum due to COVID-19 and/or the company is facing liquidity issues due to COVID-19.

Practicalities

The additional compensation does not have to be reimbursed.

The regulation has a retroactive effect if applied for in the period March 2020 – May 2020.

Support is also possible via a working capital loan, of up to €10,517 with 2% interest. Maximum duration of the loan is three years. Repayment is only required as from 1 January 2021.

Cross border

Self employed workers who reside in the Netherlands and operate their business in another EU member state are also eligible for the welfare benefit.

Self employed workers residing in another EU member state and operating their business in the Netherlands could be eligible for the working capital loan.

It will be confirmed how the non Dutch resident self employed worker needs to apply.

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Employment support: gebruikelijk loon ('customary wage')

Last update: 28 April 2020

The customary wage (gebruikelijk loon) which a Director/substantial shareholder needs to receive from the company can be lowered

Who is eligible?

A Director/substantial shareholder needs to derive a minimum employment income from his company for payroll tax purposes. Payroll tax needs to be withheld on this customary wage or 'gebruikelijk loon'

What does it cover?

- ▶ The customary wage (gebruikelijk loon) will temporarily (2020) be lowered for companies impacted by COVID-19.
- ▶ The customary wage will be lowered in accordance with the decrease in turnover, for which a comparison is made between the relevant period 2020 against the same period 2019.

How is it accessed?

Further details are expected to be announced shortly.

For more information

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Last update: 2 April 2020

The Dutch tax authorities will be more accommodating towards employers regarding the new Balanced Labour Market Act (WAB).

Who is eligible?

Under the WAB Unemployment Insurance (WW) employers pay a low contribution (2.94%) for employees on indefinite employment contracts and a high contribution (7.94%) for employees on flexible contracts, including indefinite part-time contracts (<35 hours a week) or where employees work 30% overtime.

What does it cover?

- ▶ This premium will be adjusted so that the high contribution does not apply to sectors with overtime due to COVID-19, such as in the healthcare sector
- ▶ The low contribution only applies when employment agreements are in writing. The period to ensure that current employment contracts are laid down in writing has been extended from 1 April 2020 to 30 June 2020.

How is it accessed?

It has not been confirmed which sectors this applies to yet. Companies will need to verify first whether their sector is covered under the overtime exemption.

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Last update: 15 April 2020

The Dutch tax authorities will be more accommodating towards employers' administrative payroll taxes requirements for onboarding employees.

Who is eligible?

Employers hiring and onboarding new employees need to fulfill administrative requirements for payroll taxes that due to COVID-19 measures sometimes cannot be met.

What does it cover?

- ▶ The Dutch tax authorities indicated that they will be more accommodating towards employers that cannot meet their administrative payroll taxes requirements for onboarding new employees due to COVID-19 measures.
- ▶ This applies for example where employers cannot identify a new employee in person. Sanctions (of the anonymous tax rate being applicable) will not apply as long as the employer takes care of proper identification once possible again.

How is it accessed?

Measures can be applied by employers.

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Last update: 15 April 2020

The Dutch social security authorities (Sociale Verzekeringsbank) have decided that working from home due to COVID-19 will not be taken into account for determining the 25% condition for social security purposes.

The Dutch tax authorities clarified tax positions for cross border commuters

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Who is eligible?

This concerns multiple state workers (or cross border commuters) living or working within the European Union, the European Economic Area or Switzerland.

In accordance with the EU directive on social security these multiple state workers are required to pay social security in their home country when working there at least 25% of their time

Due to COVID-19 the social security position of multiple state workers therefore may change due to working from home.

Who is eligible?

Dutch resident employees working in Belgium or Germany could be confronted with Dutch taxation on their employment income whilst working from home (or the other way around for Belgium or German residents working in the Netherlands). Authorities have taken measures to mitigate the COVID-19 'working from home' impact on taxation on employment income.

COVID-19: EMEA EY Government Support Package

What does it cover?

- ▶ The Dutch social security authorities confirmed working from home due to COVID-19 will not be taken into account for determining the multiple state workers' social security position.
- ▶ Rules will be applied as if working from home due to COVID-19 has not occurred.

What does it cover?

- ▶ The Netherlands and Germany agreed that a change in employment pattern due to COVID-19 does not impact taxation on the employee's employment income. Taxation will be levied in accordance with the 'regular' working pattern. Employees, however, may choose to apply the tax treaty rules and possibly have their employment income taxed in the resident state whilst working from home.
- ▶ The Netherlands and Belgium have agreed that being at home (not able to work) due to COVID-19 will not impact taxation on employment income. An agreement on the position for employees working from home is still expected.

How is it accessed?

There is no need to make arrangements for these cross border employees. The regular rules otherwise apply.

How is it accessed?

Dutch resident employees that work in Germany may receive a net German COVID-19 state benefit. The Netherlands and Germany agreed that the Netherlands will exempt this benefit from taxation.

How is it accessed?

Measures can be applied in line with regular rules on (wage) tax filings.

Employment support : Reimbursement of costs and allowances

Last update: 28 April 2020

This sheet provides for an overview of employment support while employees are working from home. This concerns existing legislation that may be relevant now due to working from home because of COVID-19.

The tax free budget for the Work Related Costs scheme has been increased from 1,7% to 3% over the first 400,000 Eur of taxable wages.

Taxation on home-work travel allowances not impacted by COVID-19

Who is eligible?

The Work Related Cost Scheme (WRCS) allows certain IT related equipment to be provided to employees tax free (including an allowance for internet costs) as long as the equipment is required to perform the job, i.e. the 'necessity criterion'

There is also a specific exemption for the provision of equipment for health and safety purposes (arbovoorzieningen) per the Working Conditions Policy (Arboplan), e.g. a desk and an office chair can be provided to ensure an ergonomic workplace at home.

The tax free budget over the first 400,000 Eur of taxable wages has been increased from 1,7% to 3%.

Who is eligible?

Whilst working from (or staying at) home employees do no longer make travel expenses and employees could be confronted with taxation on the travel allowance that they receive for home – work travel expenses (where employers continue payout).

How is it accessed?

Employers should designate the ICT-equipment and the health and safety facilities as work-related costs (under specific exemption) in their WRCS administration.

Both employee and employer therefore benefit from the tax free facility.

The claim should be made at the moment when the equipment is provided to the employee.

What does it cover?

- Tax authorities approved that COVID-19 changes in travel patterns will not impact taxation on travel allowances for home – work. Travel expenses can be reimbursed in accordance with the regular rules and COVID-19 'home' days can be regarded as travel days in accordance with the regular working pattern.

Practicalities

- Employers should conclude an agreement with their employees when they provide the employees with for example a laptop. The agreement should include that the employee will return the provided equipment or pay the residual value, if the equipment no longer meets the legal conditions. This should be assessed for example when the COVID-19 crisis is over and employees return to their usual workplace at the office.
- If an employer asks for an allowance when providing the laptop, the 'necessity criterion' is not met and the specific exemption cannot be applied.

How is it accessed?

Employers should apply the regular rules for tax free payout of home – work travel allowances and regard the COVID-19 'home' days under the regular travel pattern.

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Last update: 2 April 2020

As a result of Covid-19 and the governmental measures introduced, parties may be entitled to suspend their payment obligations and/or amend their contractual obligations by invoking force majeure, unforeseen circumstances or the principle of reasonableness and fairness to find some relief from their obligations.

This should be determined on a case by case basis. The general rule of 'pacta sunt servanda' (agreements are to be kept) remains the basic principle and that restrictions to this principle may only be applied in exceptional circumstances.

Force Majeure

- ▶ Force majeure is a circumstance which makes it impossible for a party to meet its (contractual) obligations.
- ▶ By law, force majeure applies where a party was not at fault for the failure and where it cannot be held accountable on the basis of the law, a legal act, or common law.
- ▶ In the event of force majeure the other party cannot claim performance or compensation from the defaulting party.
- ▶ Contractual terms may extend or limit the scope of force majeure circumstances or the consequences thereof.

Unforeseen circumstances

- ▶ Upon the request of any party to an agreement; the court may either modify the effects of a contract or set it aside in whole or in part, on the basis of unforeseen circumstances which are of such a nature that the other party cannot expect, in accordance with generally held standards of reasonableness and fairness, the unaltered contract to continue to be valid and enforceable.
- ▶ The court may grant such modification or setting aside a retroactive effect.
- ▶ On the basis of this legal concept a party could try to renegotiate and have its lease obligations decreased for the period of the Covid-19 measures for instance.

Reasonableness & fairness

- ▶ Under Dutch law, all contractual terms are governed according to standards of reasonableness and fairness. A clause is not enforceable to the extent that, in the given circumstances, this is not the case.
- ▶ The extraordinary circumstances due to Covid-19 may for certain parties result in unreasonable negative consequences, such that contractual terms may not be applicable.
- ▶ This may oblige parties to renegotiate their contractual terms. If no agreement is reached, a court may determine that certain terms no longer apply.

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Last update: 2 April 2020

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
- ▶ 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--](https://www.ey.com/en_us/tax/how-covid-19-is-causing-governments-to-adopt-economic-stimulus--)

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