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Government rent subsidy

The Government of the Slovak Republic has introduced several legislative instruments designed to mitigate the impact of Covid-19 pandemic restrictions on entrepreneurs. On 17 June 2020, a new scheme for state aid came into effect for tenants who were forced to shut down or restrict their operations by measures of the Slovak Public Health Authority (State Aid Scheme)¹. On 24 August 2020, the State Aid Scheme was supplemented by a scheme of minimal aid for tenants (“De Minimis Scheme”)², available also to undertakings “in difficulties”. Both measures provide for state subsidies in cases when the use of rented premises was limited or made impossible. In order to qualify for the state subsidy, several legal conditions must be met. This article outlines the eligibility criteria and application procedure for the subsidy.

Who is the subsidy for?

Although tenants are eligible applicants for the subsidy, it is predominantly intended to benefit landlords who have experienced restricted use of rented premises, forcing them to waive part of their rental income for the period in question. To qualify, measures designed to prevent the spread of Covid-19 must have made the use of rented premises:

- ▶ Impossible due to their closure
 - ▶ Impossible due to school closures
- OR
- ▶ Significantly limited by restrictions on public gatherings

The subsidy only applies to lease (or sublease) of **real estate which is a marketplace or non-residential space, where goods are sold or services are provided to final consumers**, including related service and storage areas. The property must be designated by the construction authorities as being for purposes other than housing. At the same time, the entrepreneur

must have concluded a lease agreement (or sublease or similar agreement under the law of jurisdiction, according to which the tenant acquired the right to use the real estate) **no later than 1 February 2020**.

The lessor can be either a legal entity or an individual and either an entrepreneurial or private person. The tenant can be an individual - entrepreneur, legal entity - entrepreneur or legal entity - non-entrepreneur.

The application for the state subsidy includes a declaration outlining the conditions for its provision and submitted data is subject to examination by the authorities. Providing false information may result in the obligation to repay the rent subsidy, while administrative and, in extreme cases, criminal sanctions, cannot be excluded.

How is the level of subsidy determined?

The landlord is required to provide the tenant with a rental discount. The amount of subsidy will match the amount of the rental discount but may not exceed 50% of the rent for the period

¹ Section 13c of the Act. No. 71/2013 Coll. on Provision of Subsidies by the Ministry of Economy of the Slovak Republic, as amended, and the State Aid Scheme for Support of the Economy in connection to the COVID-19 Outbreak - Rent Subsidy approved by the Commission under No. SA 57599 (2020/N)

² Section 13c of the Act. No. 71/2013 Coll. on Provision of Subsidies by the Ministry of Economy of the Slovak Republic, as amended and the De minimis Aid Scheme for Support of the Economy in connection to the COVID-19 Outbreak - Rent Subsidy (DM-10/2020)

of restricted use. **Conclusion of an agreement between the landlord and tenant on a rental discount** is therefore a qualifying condition for provision of the subsidy.

Example:

Under a lease agreement for a retail operation signed before 1 February 2020, the tenant undertook to pay the landlord rent of €1,000 per month. The use of the premises was made impossible due to a decision taken by the authorities designed to limit the spread of Covid-19. If the landlord and tenant agree on a rental discount of €250, the state will contribute a subsidy equal to the discount (€250) and the tenant will pay €500. The tenant will thus bear only ½ the original rental burden and the landlord will receive ¾ of the originally agreed amount.

Please note that if the tenant remains obliged to pay part of the rent after deducting the discount and the subsidy, they have the right to repay this amount in 48 equal installments, always due on the 15th day of the month.

For the purposes of the state subsidy, rent is to be considered a financial payment from the tenant to the landlord based on a rental or similar agreement. **It does not include other payments** related to rent, e.g., utilities, or any variable component of the rent dependent on external circumstances.

What if the rent has already been paid in advance by the tenant?

If the tenant has already paid rent to the landlord for the period of restricted use of rented premises, they can exercise the right to pay future rent in installments, for a period equal to that of the restricted use. A rent subsidy equal to the received rental discount for this period may also be provided, based on an agreement between the landlord and the tenant but cannot exceed 50% of the rent. If the landlord and the tenant have not agreed on a rental discount, the tenant will not be entitled to a subsidy. However, the tenant will have the option of a rental payment schedule for the period of restricted use, up to 48 equal monthly installments, unless otherwise agreed with the landlord.

How to apply for the subsidy?

Rental subsidies will be provided by the Ministry of Economy of the Slovak Republic based on applications which can be submitted until 30 November 2020. Subsidies are subject to limits of €800,000 per undertaking under the State Aid Scheme and €200,000 under the De Minimis Scheme.

The application is **submitted by the landlord on behalf of the tenant**, who is obliged to provide the landlord with necessary information, and the subsidy is paid directly to the landlord. Only **electronic submissions are accepted, using a form** on the slovensko.sk web portal, and must be completed by both landlord and tenant with a qualified electronic signature.

After the amendment from 24 August 2020, the documents can also be signed by a third party using power of attorney, provided specific criteria are fulfilled.

How can we assist you in applying for the subsidy?

On its website, the Ministry of Economy of the Slovak Republic has prepared instructions for landlords and tenants on how to proceed when applying for subsidies. However, applicants may encounter several legal and technical issues, such as qualification requirements, the nature of the tenancy relationship or use of a qualified electronic signature.

We can help you with the following:

- ▶ As the application can only be submitted electronically with a qualified electronic signature, we can ensure that this process is completed correctly or complete the submission for you.
- ▶ We can determine whether you have experienced qualifying restricted use of rented premises and the extent of the qualifying period.
- ▶ We will check whether you can apply for a subsidy related to certain real estate by examining the occupation approval decision and designation of the real estate for purposes other than housing (e.g., in cases of businesses established in residential properties).
- ▶ We will check whether you meet the specific condition that you are not an “undertaking in difficulty” (the condition applies only to medium and large enterprises benefiting from the State Aid Scheme, not the De Minimis Scheme).
- ▶ For subsidies exceeding €100,000, we can determine the ultimate beneficial owner.
- ▶ As a tenant, if your business, together with companies belonging to a “single economic unit”, has already benefited from other types of state aid in response to the pandemic, such as employment maintenance contributions, we will review whether the permitted limits have been exceeded by benefiting from the State Aid Scheme, and in this context we will also define your economic unit.
- ▶ As a tenant, if your business, together with companies belonging to a “single economic unit”, has already benefited from other types of de minimis aid in the last three years, we will review whether the permitted limits have been exceeded through benefits from the De Minimis Scheme, and in this context we will also define your economic unit.
- ▶ We will propose necessary adjustments to lease agreements and calendars for rental payments in installments.

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