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Measures adopted by the Environmental Fund Administration in the context of the COVID-19 pandemic

Given the difficult situation that the economic operators are facing in the context of the spread of infection with SARS-CoV-2 on the Romanian territory, the Environmental Fund Administration (“EFA”) has adopted a series of measures supporting the business environment.

I. Legislative measures adopted in support of companies affected by COVID-19 pandemic

On 21 March 2020, the Emergency Ordinance no.29/2020 on economic and fiscal measures in the context of COVID-19 pandemic („EO no. 29/2020”) was published in the Official Gazette of Romania, Part I.

Measures to support SMEs

GEO 29/2020 brings amendments to the Government Emergency Ordinance no. 110/2017 regarding the support program for small and medium-sized enterprises - SME INVEST ROMANIA, changes aimed to supporting SMEs during the period of COVID-19 pandemic.

According to the adopted normative act:

1. SMEs can receive loans guaranteed by the state up to 80% of the value of the financing granted (excluding interest, commissions and bank charges), financing which cannot cumulatively exceed 10 million lei, for:
 - investments - the maximum value of financing 10 million lei;
 - working capital - within the limit of 5 million lei, the maximum value of financing cannot exceed the average of the expenses related to the working capital of the last two fiscal years.
2. By exception, the State will guarantee up to 90% of the value of the financing granted to micro-enterprises and small businesses for financing working capital (excluding interest, fees and bank charges) provided that the maximum value of financing is 500,000 lei for micro-enterprises and 1 million lei for small businesses.
3. The interest will be fully subsidized by the state in all cases. The subsidy period is from the moment of the granting the loan and may last until 31 March 2021. It can be extended for another two years if the estimated economic growth is lower than in 2020.
4. Maximum financing period: 10 years for investment loans and 3 years for working capital credits/lines of credit (the latter can be extended for another 3 years under certain conditions).
5. The administration fees with respect to the National Credit Guarantee Fund for SMEs (in Romanian Fondul National de Garantare a Creditelor pentru Intreprinderile Mici si Mijlocii) are borne by the state.

Tax measures

The following tax measures were adopted through GEO no. 29/2020:

1. The deadline for declaring and paying the tax obligations due at the date of the present Emergency Ordinance (21 March 2020) remains 25 March, however, no late payment charges will be applied and such obligations will not be viewed as being outstanding in accordance with the provisions of the Procedural Tax Code approved through Law no. 207/2015, with the subsequent amendments and completions.
2. The enforced recovery of budgetary debts by garnishee order, with the exception of receivables established by rulings in penal matters are suspended or, as the case may be, not commenced.

The above measures regarding the suspension and tax accessories will end in term of 30 days from the termination of the state of emergency.

3. The taxpayers who apply the prepayments regime for the declaration and payment of the annual corporate income have the possibility to compute the corporate income tax for 2020 based on the actual figures incurred during the current quarter. The regime should remain valid throughout the year 2020 and the facility may be also applicable by

the taxpayers having the tax year different than the accounting one (for quarters related to the calendar year 2020);

4. The payment deadline for the tax on buildings, land and means of transportation, due as at 31 March, is extended until June 30 (the related discount will be kept, under the assumption that the taxes will be fully paid up to the same term i.e. 30 June).
5. GO 6/2019 on establishing certain fiscal facilities was amended in order to push the deadline for submitting the notification of the restructuring intention from 31 March 2020 until 31 July 2020 and the request for restructuring can be made until 31 October 2020.

Measures applicable within contractual relationships

The ordinance is providing a couple of measures in order to also temperate the impact of the pandemic at the level of the contractual relationships. Subject to such are mainly the SMEs

1. The SMEs that have totally or partially interrupted their activity based on measures imposed by the authorities and that hold the emergency situation certificate, are entitled to defer the payment for utility services - electricity, natural gas, water, telephone and internet services, as well as to defer the payment of rent for the registered office and secondary offices.
2. For any other ongoing agreements then the ones mentioned above, the SMEs might invoke the force majeure only after their endeavor, proven by documents transmitted between parties in any way, including electronic ones, to negotiate the agreements, in order to amend the agreements according to the new conditions generated by the state of emergency.
3. The SMEs do not owe penalties stipulated for delays in the execution of obligations arising from the contracts concluded with the public authorities for the entire period of the state emergency.
4. It is presumed to constitute a case of force majeure the absolutely unforeseeable, invincible and unpredictable circumstance referred to in art. 1351 para. (2) of the Civil Code, which results from an action of the authorities in the application of the measures imposed by the prevention and control of the pandemic, which affected the activity of the SMEs, an impact attested by the emergency situation certificate. The presumption may be overturned by the interested party by any means of evidence. The unpredictability is related to the time of conclusion of the affected agreement. The measures taken by the authorities in accordance with the Decree that established the state of emergency will not be deemed unpredictable.
5. The public notaries, layers and bailiffs are entitled for the facility mentioned under point 1 above based on certain criterias which shall be established by the Government and under the condition of fulfilling of certain conditions, the main one being the undertaking of all measures for continuing of the activity. Breaching this obligation constitutes a disciplinary misconduct and is sanctioned with exclusion from the profession.
6. The facility mentioned at point 1 above is also applicable for family physicians and dental offices that have a maximum of 20 employees / collaborators and whose activity is directly affected by the measures imposed by the authorities. The criteria based on which the beneficiaries of this measure are established will be established by a subsequent Government decision.
7. National sports federations and sports clubs, having the emergency situation certificate and whose activity, is directly affected by the measures imposed by the authorities, are also entitle for the facility mentioned at point 1 above.

Amendments in respect to the legal obligations regarding the ultimate beneficial owner

The term for submitting the statement regarding the ultimate beneficial owners of a company, obligation stated by Law 129/2019, was postponed by 3 months after the cessation of the emergency state (the term initially provided by law was July 21, 2020).

II. Emergency Ordinance no. 30/2020 amending certain normative acts, as well as for establishing several measures regarding social protection given the epidemiologic situation derived from SARS-CoV-2 spreading

The Emergency Ordinance no. 30/2020 (“EO no. 30/2020”) amending certain normative acts, as well as for establishing several measures regarding social protection given the epidemiologic situation derived from SARS-CoV-2 spreading was published in the Official Gazette no. 231 from 21.03.2020.

Main provisions regulated under the Emergency Ordinance no. 30/2020:

Law no. 19/2020 regarding the paid leave granted for parents supervising their children during the temporary period in which the learning institutions are closed

Who can benefit from this paid leave?

- the natural parent;
- the adopting parent;
- the person who has the child/children in foster care for adoption;
- the person who has the child for placement;
- the person who is taking care of the child during the period in which the parents are absent working abroad;
- the parent or legal representative of the adult person with disabilities enrolled in a learning institution;
- the parent or legal representative of the child/adult with severe disabilities, under certain conditions.

Who cannot benefit from this paid leave?

- The parent who benefits from child-raising leave;
- The parent who acts as personal assistant of one of his/her dependent children;
- The parent who is on holiday leave/unpaid leave;
- One of the parents or his/her spouse who has the employment contract suspended because of his/her employer interrupted temporary the working activity;
- The other parent who does not derive salary income, income from independent activities, income from intellectual property rights, income from agricultural activities, forestry and fishing.

What should the employee do?

The parent requesting such paid leave must submit a request to his/her employer accompanied by a copy of the child's birth certificate and by the other parent's self-statement, which should contain the following:

- He/she did not ask for such paid leave; and
- He/she does not benefit from child-raising leave/holiday leave/unpaid leave; and
- He/she does not act as the personal assistant of his/her dependent child.

What should the employer do?

The employer must pay to the employee for each free day an indemnification in the amount of 75% of the employee's base salary, correspondent to each free day, but no more than the correspondent per day of 75% of average gross salary income earnings used for calculation of the social contributions budget for which the paid leave has been granted and further may request the settlement of the amounts representing the net compensation actually received by the parent, from the Guarantee Fund.

Government Emergency Ordinance no. 111/2010 regarding the leave and the monthly allowance for raising children

The insertion incentive is granted for a period of 90 days to the individuals who, starting with 21.03.2020, are in one of the following situations:

- benefit from temporary work incapacity leave or for sick child caring leave;
- benefit from paid leave for supervising their children, in the situation of temporary closure of the learning institutions;
- have their employment contract suspended because of the temporary interruption of the working activity by their employer;
- their employment relationship was suspended or terminated as a consequence of the emergency situation.

Regulations regarding the technical unemployment

Measures taken following the establishment of the state of emergency

- During the temporary suspension of the employment contract from the employer's initiative according to art. 52, paragraph (1) letter c) from the Labor Code, the unemployment indemnity the employees may benefit from are established at 75% from their base salary. A part of 75% from the average gross salary per country would be subsidized from the unemployment budget.
- The employees can receive such unemployment indemnity if their employers:
 - are totally or partly interrupting their activity based on the decisions issued by the competent public authorities, and have available the certificate for emergency situations issued by the Ministry of Economy, Energy and Business Environment;
 - reduced their activity and do not have the financial capacity to pay all the salaries to their employees. The employers can only receive compensation for up to 75% of the employees who have their employment contracts active as of 21.03.2020.
- When computing the salary income tax, the following possible deductions should not be taken into consideration:
 - personal deduction granted for the respective month;
 - the union contributions paid in the respective month;
 - contributions to voluntary pension funds up to a limit of 400 euros/year;
 - voluntary health insurance premiums up to 400 euros/year.
- No work insurance contribution is due for the unemployment indemnity.
- Other professionals, as regulated by the Romanian Civil Code, who are not employers, but are required to either totally or partly interrupt their activity, are receiving an unemployment indemnity equal to a gross minimum salary per country. The unemployment indemnity is borne from the general consolidated budget.

- The athletes who were required to either totally or partly interrupt their activity are benefiting from an unemployment indemnity equal to 75% of the amount that should have been paid for the activity performed, but no more than 75% of the average gross salary per country. The unemployment indemnity is borne from the general consolidated budget.

What are the liabilities of the employer?

- The employers who are totally or partly interrupting their activity based on the decisions issued by the competent public authorities have the obligation to obtain the certificate for emergency situations issued by the Ministry of Economy, Energy and Business Environment;
- The employers reducing their activity must submit a self-statement, mentioning they are facing a revenue decrease during the previous month of the submission of such statement, with at least 25% compared to the average income from the period January - February 2020 and that they do not have the financial capacity to pay all employees;
- The employers have to submit a request containing the employees that should benefit from the indemnity, together with the necessary documentation during the current month for the previous one, towards the employment agencies located within their registered office area. Further to submitting this request, the employers will receive 75% from the employee base salary but no more than 75% of the average gross salary per country for each employee, based on their base salary. The payment of the unemployment indemnity is borne by unemployment insurance budget and is made within 30 days from the moment the documents were submitted;
- The employers must compute, withhold and pay the income tax and mandatory social security contributions due by the employee related to the unemployment indemnity until the 25th of the following month in which the amount is paid from unemployment insurance budget.

III. Government Decision no. 217 for the application of the provisions of Law no. 19/2020 regarding the paid leave granted for the parents for supervising their children during the period of temporary closure of the educational units

On March 21, 2020 in the Official Gazette no. 230 was published the Government Decision no. 217 for the application of the provisions of Law no. 19/2020 regarding the paid leave granted for the parents for supervising their children during the period of temporary closure of the educational units.

According to the adopted normative act:

- Paid leave is granted to one of the parents, in case of suspension or temporary closure of educational units, with an indemnity of 75% of the salary, but no more than 75% of the average gross salary in the country used for establishing the state social insurance budget;
- The indemnity is subject to taxation and payment of related contributions, in accordance with the provisions of the Fiscal Code;
- The amounts paid by the employer as indemnity shall be settled by the state within 60 days from the transmission of the documents via e-mail to the employment agencies, including proof of payment of the income tax and the contributions related to this indemnity;

- The paid leave is granted for the working days until the state of emergency is ceased, excepting the working days during the school holidays;
- The paid leave is granted upon the request of one of the parents, submitted to the employer of the parent that will supervise the child. The request must be accompanied by an affidavit from the other parent, stating that latter did not request such paid leave from his/her employer and that he/she is not on vacation or leave without pay and the copy of the birth certificate(s) of the child(ren).

For more details, please do not hesitate to contact us.



Alexandra Smedoiu
Partner, Deloitte Tax
asmedoiu@deloittece.com



Andreea Artenie
Partner, Reff & Associates
aartenie@reff-associates.ro



Cristi Secieru
Partner, Reff & Asociații
csecieru@reff-associates.ro



Florentina Munteanu
Partner, Reff & Asociații
fmunteanu@reff-associates.ro



Radu Derscariu
Director, Deloitte Tax
rderscariu@deloittece.com



Monica Țariuc
Senior Manager, Deloitte Tax
mtariuc@deloittece.com

Measures adopted by the Environmental Fund Administration in the context of the COVID-19 pandemic

The EFA has decided to support the economic operators, whose activity is deeply affected by the current pandemic, adopting the following measures, which will be applied in Romania during the emergency state, with the possibility of being prolonged:

- The deadline for submitting the declarations regarding the obligations to the Environmental fund is postponed from 25th March 2020 until 25th April 2020;
- The declarations regarding the obligations to the Environmental fund will be sent exclusively by postal services/courier or using the service “Online submission of the declarations”;
- The tax inspections are suspended, except the verifications which can take place remotely, as well as the tax evasion causes;
- The forced execution of budgetary debts is suspended or does not start, except the ones derived from court decisions ruled in criminal matters;
- Tax payers will be assisted exclusively by means of distance communication;
- Tax certificates regarding the obligations to the Environmental fund will be issued exclusively by sending them by postal services/courier.

For further questions regarding the aspects mentioned in this alert, please contact us.



Adrian Teampău
Director, Taxe Indirecte
+40 730 077 776
ateampau@deloittece.com

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