

Luxembourg, April 17, 2020

As in many other countries, the Luxembourg government has recently announced a number of measures to stabilize the economy as a result of the exceptional Covid-19 Pandemic (the ‘Crisis’). These have all been announced within the legal framework of a State of Emergency (*Etat de Crise*) which was officially declared on the 18<sup>th</sup> March, 2020 and which has been formally extended by Parliament for the maximum 3 month period (renewable) permitted by the Constitution.

We hereby report the main measures announced within this legal framework. These are however subject to almost constant change, as more and more details emerge of the effects of the Crisis and the need for further measures. These measures and further information can be found, in French, German and English, through the following Ministry Of The Economy website:

<https://meco.gouvernement.lu/en/dossiers/2020/coronoavirus-entreprises.html>

It is also important to note that some of the initiatives which have been announced have not been formalised within the State of Emergency regulatory framework. Therefore, there are some doubts as to their full effect, in addition to the usual problems in seeing how any legislative change is applied in practice by the civil service.

The situation is of course changing rapidly, it is therefore important to follow the tax and legal changes carefully and keep up to date. Should you wish to have more information on the criteria and the procedure to benefit from these measures, please do not hesitate to contact us.

Finally, please bear in mind that within the Civil Law system that applies in Luxembourg (as compared to the Anglo Saxon/Common Law) one has to, for example, distinguish between a “commercial” business and a “profession”. Therefore there is a difficult ongoing discussion as to whether and to what extent these measures can benefit lawyers and other self-employed individuals.

### **1. Direct Tax Measures:**

Provided that they are experiencing liquidity problems as a result of the Crisis, legal entities and individuals who make a commercial profit, an agricultural and forestry profit or a profit resulting from the exercise of a liberal profession, may apply for:

- a cancellation of their quarterly advances of income tax (corporate income tax) and of the municipal business tax for the 1st and 2nd quarter of 2020;
- an extended payment deadline for income tax (corporate income tax) municipal business tax and net wealth tax.

Requests for cancellation of advances and payment deadlines, that have to be made online, are automatically accepted by the administration for eligible taxpayers.

In addition, the deadline for submitting tax returns by legal entities and individuals has been extended to 30 June 2020.

No requests regarding quarterly advance tax payments or tax payments that were due before 29 February 2020 should be made.

## **2. Indirect Tax Measures:**

As a result of the Crisis, the Luxembourg Indirect Tax Administration (*Administration de l'Enregistrement, des Domaines et de la TVA* - AED) has announced that there is no administrative penalty for exceeding a deadline for filing VAT returns. This measure applies until otherwise indicated by the AED.

With regard to indirect taxes, the AED is immediately reimbursing all VAT credit balances below 10,000 euros arising after 16<sup>th</sup> March 2020.

## **3. Social Security Contribution Measures:**

A series of measures has been introduced to support companies and independents, by offering them increased flexibility in their payment of social contributions.

With effect from 1 April 2020 and until further notice, the Social Security Administration (*Centre Commun de la Sécurité Sociale*) or CCSS, is putting in place the following temporary measures:

- suspension of late payment interest calculations on payment delays;
- suspension of the initiation of legal proceedings for forced repayment of contributions;
- suspension of collection procedures involving bailiffs;
- suspension of fines for delays in filing declarations.

While all social security contributions remain due, these measures will enable employers who are in a precarious financial situation due to the Crisis to better manage payment of such contributions in the coming weeks, without triggering administrative sanctions.

The measures apply not only to future calls for contributions but also to current outstanding balances, notwithstanding eventual additions (interest payments, fines) as set out in the statement of account of the CCSS dated 14 March 2020.

Completing these measures, the CCSS will go ahead with payment of an advance on financial compensation for extraordinary leave for family reasons (*congé pour raisons familiales extraordinaire* - COVID-19) granted to the parents of children affected by the temporary closure of primary and secondary educational facilities, professional training, care centres, etc. This measure is aimed at advancing a substantial part of the reimbursement of salaries which employers normally would have to continue to pay to parents concerned and which, during normal times, would only be made in the month of May 2020 by the Employers' Mutual Insurance Scheme (*Mutualité des Employeurs*) The advance will be paid mid-April 2020.

### **Short Time Work:**

In order to protect employment and thus prevent dismissals in companies suffering from the negative economic impact of an event such as the Crisis, the Luxembourg Labour Code generally allows businesses to resort to various types of short-time work (*chômage partiel*) under certain conditions and depending on the nature of the difficulties encountered.

This scheme for short-time work in the event of force majeure (which is in fact an extension to an existing system) may, due to the Crisis, be applied to employees who are not covered by a certificate of their inability to work and can no longer be employed either at all or full-time, when the business is no longer able to ensure the normal functioning of its activity. This can be, for example, because its supplier of raw materials is no longer able to deliver or supply the full volume required, or if there is a substantial drop in orders from customers or users. This can be because of staff absences as a result of external decisions or if one or more of the departments of the business are at a standstill.

It applies in principle to all the sectors of the economy if the causes invoked are directly related to the Crisis.

If an application is approved, the Employment Fund (*Fonds pour l'Emploi*) pays 80% of normal salaries, subject to a maximum of 250% of the Minimum Social Wage (*Salaire Social Minimum*) (EUR 2,141.99, indexed for inflation,  $\times 2.5 = \text{EUR}5,354.98$  per month for an unskilled employee aged 18 years) subject to a maximum period of claim, which is one of the many things which will require review if the Crisis continues for long. This rate is in fact the usual rate applied to any unemployed individual who has the right to claim State assistance, even absent the Coronavirus.

### **4. EUR 5,000 Direct Aid for Small Businesses:**

In the context of the Crisis, the General Directorate for Small and Medium-Sized Enterprises (*Direction Générale des Classes Moyennes*) from the Ministry of the Economy has set up an emergency fund for very small companies and self-employed persons.

Businesses with 9 employees or less, and self-employed persons who have a valid business permit (which excludes most 'professionals' who are regulated otherwise) and have had to stop their activity due to a government decision in the context of the Crisis can apply for an immediate and non-refundable financial aid of EUR 5,000.

The granting of this aid is independent of other existing and future aid instruments.

### **5. Guarantee Facility for New Bank Loans**

Due to the Covid-19 crisis, a State guarantee scheme for new bank loans is available to help businesses under certain conditions.

The new credit lines will be guaranteed at 85% by the State and 15% by the participating banks for loans granted during the period from 18 March 2020 to 31 December 2020.

This scheme is intended as a subsidiary tool, after having resort, where possible, to the tools of the Société Nationale de Crédit et d'Investissement (SNCI), the Office du Ducroire or the European Investment Bank in particular.

These new credits are reserved for businesses that were viable before 18 March 2020 (State of Emergency). The assessment of whether a business was viable or not is the sole responsibility of the bank which provides the credit.

## **6. New Aid Scheme :**

On April 3<sup>rd</sup>, 2020, a law on an aid scheme in order to support those companies and self-employed people that find themselves experiencing temporary financial difficulties as a result of the repercussions of an exceptional, unforeseeable event on a national or international scale (such as the Crisis) has been adopted.

The following conditions will apply for this aid:

- the event must be recognised as having a detrimental effect on the economic activity of certain businesses over a specific period of time;
- the business must be experiencing temporary financial difficulties;
- the business must have engaged in its activity before the unforeseeable event,
- there must be a causal link between the difficulties and the event.

It is intended that a pandemic such as the coronavirus falls within the definition of an exceptional unforeseeable event.

Businesses and self-employed people are able to take advantage of such aid. The admissible costs are the personnel costs as well as the rent (capped at EUR 10,000 per month per single undertaking (group)) during the period of crisis. Revenues of a professional activity pursued as a self-employed person are also eligible. The aid can cover up to 50% of the eligible costs and the maximum amount could go up to 500.000 euro per company.

The aid will take the form of a recoverable advance payment. The repayment of the aid begins no earlier than 12 months after the first payment of the repayable aid and according to a plan negotiated and approved by the State which takes account of the result achieved by the company during the tax year in which the aid was granted and in subsequent tax years.

Repayment of the advance will bear a discount rate applicable at the time the aid was granted.

This aid scheme may not be cumulated for the same eligible costs with other aids, to the extent that such accumulation results in exceeding the most favorable maximum amount of aid provided for under the applicable schemes.

Any application must be submitted to the Ministry of the Economy no later than 15 August 2020.

Take care, and don't forget to wash your hands.



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