

## CORONAVIRUS: SUPPORT MEASURES FOR ROMANIAN COMPANIES FACING FINANCIAL DIFFICULTIES

The Romanian government has adopted a number of place support measures to help businesses affected by the coronavirus outbreak, including State-guaranteed loans, subsidised interest rates, several tax reliefs and the State covering part of the costs of technical unemployment.

### ROMANIAN MEASURES

The Romanian Government adopted Government Emergency Ordinances ("GEO") no. 29 and no. 30, which entered into force on 21 March 2020, implementing measures aimed at helping companies in Romania continue business and mitigate the negative economic consequences generated by the spread of the Coronavirus as well as by the restrictions imposed by the public authorities in order to control the pandemic.

The main relevant measures include the following:

#### Government guarantee scheme

GEO no. 29/2020 increases the guarantee scheme for micro-enterprises and SMEs through the National Credit Guarantee Fund ("FNGC") by including the possibility to contract **more than one loan for investments** (the loan purpose is no longer specified) **and for working capital with an increased state guarantee to 80%** (for SMEs) **or 90%** (for micro and small enterprises) of the amount.

There are different limits for SMEs and micro and small enterprises for the maximum aggregated amount of state guaranteed financing that can be contracted by a single beneficiary.

For these loans, **the interest and the management commission will be fully subsidized until 31 March 2021** with the possibility to further prolong this scheme throughout 2021-2022 under certain conditions. It remains unclear if this will apply only for the loans contracted after 22 March or also for the ongoing ones.

The periods of working capital loans benefiting from the state guarantees were extended to up to 36 months (and can be further extended with up to 36 months) and the investment loans for a period up to 120 months.

The companies registering outstanding tax obligations and other budgetary obligations administered by the central fiscal authorities will also be able to access this guarantee scheme in certain conditions.

### Key issues

- The Romanian government adopted a package of measures to support Romanian companies, through State-guaranteed loans, subsidised interest rates, several tax reliefs, the State covering part of the costs of technical unemployment and other supporting measures.
- More targeted measures are expected and considered necessary.
- It is yet to be determined if the Romanian package can be implemented without State aid clearance by the European Commission.

A fast mechanism for approving the loans granted by Eximbank up to EUR 50 million to same debtor(s)(in aggregate) is also included in document.

### **Indemnities covering technical unemployment**

The costs with technical unemployment for the employees of companies suspending or reducing their operations as a consequence to the coronavirus crisis, will be partially covered from the unemployment insurance budget. According to the provisions of GEO no. 30/2020:

- The Government will pay 75% of the base salary of employees as monthly unemployment indemnity, but no more than 75% of the average gross salary provided by *Law no. 6/2020 regarding the state social insurances budget* - which is currently of RON 5,429;
- The beneficiaries of the indemnity are:
  - the employees of companies whose activity will be stopped (fully or partially) based on the decisions issued by the public authorities during the state of emergency period and which have also **obtained a state of emergency certificate** issued by the Ministry of Economy, Energy and Business Environment ("**Ministry of Economy**") according to the provisions of Presidential Decree no. 195/2020 (methodology for issuing such certificates is yet to be approved/published);
  - up to 75% of the employees who had an active employment contract at the date of entry into force of the emergency ordinance (namely at 21 March 2020) with companies whose activity is reduced due to the pandemic; this is granted upon a **written affidavit** of the employer that its monthly turnover is reduced by at least 25% compared to the monthly average of January-February 2020 and that it is financially unable to pay all its employees.
- This indemnity will be subject to the regular (income) taxes and social contributions provided by the law, except for the work insurance contribution, which will be computed and paid by the employer from the amounts received from the unemployment agency.

### **Tax relief measures**

Extraordinary relief measures will be applicable until the end of a 30-day period after the end of the state of emergency in respect of certain tax payment obligations for companies, as the provisions of GEO no. 29/2020 provide for:

- Interest or penalties not accruing for any fiscal obligations which become due and are not paid after the entry into force of the emergency ordinance (namely 21 March). Also these fiscal obligations, not paid during this period, will not be considered outstanding obligations under the Fiscal Code;
- Suspending garnishments or not initiating garnishment procedures against companies for the recovery of outstanding budgetary receivables, except for receivables established by criminal court decisions. The measure of suspending the existing garnishments will be implemented, by the power of law, directly by the credit institutions and third-party garnishees without any further formalities from the fiscal authorities being required;

- Extending the deadlines for payment of the first instalment of the taxes on land, buildings and means of transport from 31 March to 30 June 2020. The same extension is provided for those who elect to pay such taxes in full in order to benefit of the 10% discount;
- Extending the deadlines for submitting the notification on the intention to benefit from restructuring the budgetary obligations to 31 July 2020 and for submitting the respective applications to 30 October 2020.

### **Temporary relief related to disruptions which may arise in ongoing contracts**

According to the provisions of GEO 29/2020, the SMEs which have totally or partially interrupted their activity as a consequence of the measures imposed by the public authorities during the state of emergency and that will hold the state of emergency certificate issued by the Ministry of Economy (issuing methodology still to be established) may be entitled to certain benefits:

- they will be permitted to defer payment for certain utilities (electricity, natural gas, water, telephone and Internet services) as well as for the rent of the registered and secondary offices;
- the contractual partners of the mentioned SMEs in other ongoing contracts than those mentioned above, will only be able to invoke force majeure against them after a documented attempt to renegotiate the contract to adapt the clauses to the extraordinary circumstances generated by the state of emergency. GEO no. 29/2020 implements a *force majeure* presumption arising from the unpredictable, absolutely invincible and inevitable circumstances resulting from the measures imposed by the public authorities in order to control the Covid-19 pandemic, that impacted the activity of the SMEs, and which impact is attested by the state of emergency certificate. However, this is a relative presumption and can be overturned by the interested party by any means of evidence. Also, in analysing the incidence of the force majeure, the unpredictable character of the circumstances will be analysed by referral to the date the legal relationship affected has started. However the measures taken by the authorities in accordance with the Presidential Decree no. 195/2020 establishing the state of emergency will not be considered unpredictable.
- the mentioned SMEs will not owe delay penalties during the state of emergency under any of contracts concluded with public authorities;

For ease of process, the anticipated quarter payments of the annual corporate income tax for 2020 may be made based on the calculation of the current quarterly corporate income tax (with the methodology for the calculation remaining the same for the entire year 2020). There are special provisions for taxpayers who have opted for a different fiscal year than the calendar year.

### **STATE AID CLEARANCE**

Given the specifics of the Romanian aid package it is yet to be determined if the measures amount to notifiable State aid under Article 107(1) of the Treaty on the Functioning of the European Union (“TFEU”). If they do, the Romanian Government will have to seek clearance for all or parts of the aid package from the European Commission before it is implemented, which will assess the

measures under its “Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak”. This Framework was published on 20 March 2020 and is explained in more detail in our briefing “The European Commission’s Coronavirus State Aid Framework”, available [here](#). The Commission has already issued State aid clearances for coronavirus-related aid packages launched in a number of countries, including France, Germany, Portugal and Italy, and did so in a matter of days in each case.

## **COMMENT**

Considering the specific details of these first Romanian aid measures, the specific guidelines for implementation and online submissions of the documentation are also expected. The business sector expects more targeted and faster measures from the State, especially to the most affected sectors.

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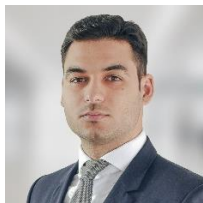
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