

THE IMPACT OF CORONAVIRUS (COVID-19): ECONOMIC MEASURES BY THE DUTCH GOVERNMENT FOR COMPANIES FACING FINANCIAL DIFFICULTIES

Recent measures have been implemented by the Dutch government to help companies in The Netherlands to continue their business whilst the markets may deteriorate and uncertainties continue.

Dutch government measures

On 12 March 2020 the Dutch government, alongside other governments throughout the EU, has announced a number of economic measures to enhance the prospects of Dutch companies surviving the financial consequences of the Coronavirus. Below we have explained these measures further.

Government guarantee scheme

Increase guarantee scheme mid-sized companies (*Borgstelling MKB-kredieten*)

The Dutch government announced the implementation temporary measures until 1 April 2021 for the Dutch government guarantee scheme for mid-sized companies. Based on this scheme credit is made available accompanied by a government guarantee if certain requirements are met. Currently the scheme allows companies, which otherwise cannot easily find financing, to obtain 50% of their required credit from the government (with a 90% government guarantee). This will now be increased to 75%. The scheme can currently be used by companies having less than 250 employees and a maximum turnover of EUR 50 mln per year, or a maximum balance sheet total of EUR 43 mln. The Dutch government confirmed to make available EUR 300mln by applying this increase.

It should be noted that the Dutch government guarantee scheme for large companies (*Garantie Ondernemingsfinanciering*) (the "**GO-guarantee Scheme**") also still applies, albeit currently only until 31 May 2020. The GO-guarantee scheme was initiated by the Dutch government after the start of the 2009 financial crisis. Based on the GO-guarantee Scheme, financiers can apply for a state guarantee when providing financing to large companies amounting to EUR 1,5mln up to EUR 50mln. The state guarantee applies to 50% of the relevant financing, therefore a maximum of EUR 25mln.

Employment

Compensation for employers in the event of a qualifying decline in business activities (*werktijdverkorting*)

If a company anticipates to have less work for its employees in the Netherlands because of the coronavirus, it may be eligible for a short time working (*werktijdverkorting*) permit, an already existent regime for situations that cannot be regarded normal entrepreneurial risks. This permit is to be applied for with the Dutch Ministry of Social Affairs and Work (*Ministerie van Sociale Zaken en Werkgelegenheid*). If the permit is granted, the company can apply for temporary unemployment benefits for its employees in relation to the hours not worked. This application is to be made with the Dutch Employment Insurance Agency (*UWV*). The employees remain on the company's payroll and, according to the information provided by the Dutch government, will be continued to be paid their regular salary. The company may, however, be (partially) compensated by means of the unemployment benefits paid to the company by *UWV*. Please note that the continuation of the impacted employees' full salary (also with regard to hours not worked) is currently under debate. For now, we are of the view that companies and their employees may rely on the information provided by the Dutch government, and we will inform you as soon as the Dutch government revisits its current position.

For the short time working permit, the following conditions will need to be met:

The company temporarily does not have, or have less, work for its employees further to exceptional circumstances such as the coronavirus;

The reduction in work amounts to at least 20% and is expected to last for at least 2 weeks but no more than 24 weeks.

Under these circumstances, a short time working permit may be granted. The permit will have a duration of 6 weeks at maximum but may be extended up to 3 times if a return to normal operating conditions is expected. The maximum duration of the short time working permit is, therefore, 24 weeks.

A few things to be noted:

For on call workers with zero-hours contracts, temporary agency workers or independent contractors (*zzp-ers*), no short time working permit is available. This means that for the question whether there is a decline of work activities of at least 20%, the hours worked by these categories of staff cannot be considered;

Upon receipt of the short time working permit, the company will have to notify *UWV* hereof directly;

For unemployment benefits to be granted, the employees will need to meet the normal conditions for unemployment benefits, including that they have worked for at least 26 weeks in the previous 36 weeks;

Unemployment benefits are capped at 75% (first two months) and 70% (afterwards) of the eligible employee's wages, whereby the wages are capped by the amount of the so-called maximum daily wages (*maximum*

dagloon). This means that, especially in relation to employees earning above an amount of EUR 4,769.34 gross per month, any unemployment benefits received will not fully compensate the company for hours not worked by relevant employees (whilst the salary payment obligation continues¹).

The Dutch government is scaling up the resources at both the Ministry of Social Affairs and Work and UWV to be able to deal with the increase of applications due to the coronavirus.

Tax

Relief in respect of tax payment obligations for companies

Taxpayers can request for an extraordinary extension of payment obligations in relation to income tax, corporate income tax, wage tax and VAT. The request for extension will be immediately granted when the taxpayer claims in writing that it has financial problems as a result of the Coronavirus. As processing such requests, which has to be done manually, will expectedly take some time, the tax authorities have indicated that they will in principle not impose penalties for late payments (or reverse these). The tax authorities will make the substantive assessment of the request afterwards.

The measures also point out that – as always – taxpayers may request a reduction of their preliminary assessment, in order to align these to the new expected performance levels. This can also help to reduce current cash-out. Also such requests will be granted by the tax authorities.

Financial Markets

Close monitoring of financial markets and financial institutions

The Dutch government acknowledges that the potential financial difficulties for companies may result in additional liquidity requirements and a need for relief of payment obligations. This may also have an impact on the financial institutions in The Netherlands. It is however noted by the Dutch government that the financial sector benefits from stability created since the last financial crisis and that there is currently no need for special measures. However, it is indicated that this may change, for which reason it is important that the European Central Bank, the Dutch Central Bank and the Authority Financial Markets all closely monitor the situation.

Conclusion

This client briefing describes the current additional measures, aimed at relief for companies in respect of employment costs, tax, and the ability to attract necessary financing. Also, the financial sector is closely monitored. It is possible that the Dutch government will announce further measures, depending on the developments of the Coronavirus and the impact on the Dutch economy. If so, we will issue an update of this client briefing to inform our clients accordingly.

¹ Please note our comment above that this obligation is under debate.

CONTACTS

FINANCE



Ilse van Gasteren
Partner

T +31 655798952
E ilse.vangasteren
@cliffordchance.com



Jelle Hofland
Partner

T +31 654615434
E jelle.hofland
@cliffordchance.com



Boudewijn Vermeer
Counsel

T +31 634490803
E boudewijn.vermeer
@cliffordchance.com

LITIGATION & DISPUTE RESOLUTION



Evert Verwey
Counsel

T +31 652327989
E evert.verwey
@cliffordchance.com



Floris van de Bult
Partner

T +31 610925305
E floris.vandebult
@cliffordchance.com



Sara Schermerhorn
Senior Advisor

T +31 621296867
E sara.schermerhorn
@cliffordchance.com

BANKING & FINANCE



Jurgen van der Meer
Partner

T +31 621517107
E jurgen.vandereer
@cliffordchance.com



Michiel Sunderman
Partner

T +31 650288875
E michiel.sunderman
@cliffordchance.com

TAX

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London, E14 5JJ

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