

## Overview of government's economic support measures in the Netherlands (12 May 2020)

In view of the spread of the COVID-19 virus the Dutch government has taken far-reaching health measures, to combat the spread of the virus. These include the forced closure of eating and drinking establishments and events, the ban on contact professions in the area of external care, cancellations in the travel sector because of the 'travel only' advice for Dutch people and the obligation to keep a distance of one and a half metres.

Although a gradual easing of the government health measures has been announced, these health measures have a direct impact on income in a number of specific sectors. In view of these consequences, the government has taken measures to support companies, entrepreneurs and self-employed persons.

From June 2020 onwards, the government of the Netherlands will present a second support package for companies in distress as a result of the corona crisis.

### **NOTA BENE:**

This overview discuss the support measures which are taken by the government of the Netherlands at this moment. It should be noted that in view of the volatility of the current situation any of the measures may be subject to change and we therefore strongly recommend that you consult with one of our experts at [coronateam@holla.nl](mailto:coronateam@holla.nl) before relying on the information below. We can assist you in making the right choices and applying for the correct facilities.

The support measures can be divided into three main categories:

1. Credit Facilities Flexibility
  1. The Business loan guarantee scheme
  2. Security small and medium-sized enterprises (SMEs)
2. Measures with respect to the payment of taxes and reduced fines (Dutch Tax and Customs Administration).
  1. Request a deferment of tax payment
  2. Lowering the interest on overdue tax
  3. Lowering the interest on tax
  4. Reduction of advance tax payments on provisional tax assessments

5. Miscellaneous

3. Income and salary compensation.

1. Temporary Support Scheme for Self-Employed Persons
2. Compensation for Entrepreneurs in Affected Sectors COVID-19
3. Temporary Emergency Bridging Measure to Preserve Employment

**1. Credit Facilities Flexibility**

**1.1 Business loan guarantee scheme** (in Dutch: *Garantie Ondernemingsfinanciering* or *GO*)

Content: the Business loan guarantee scheme is available for SMEs and large companies which meet the criteria as set by the government of the Netherlands. Applying for the GO was already possible before the corona crisis, but the scope of this scheme has broadened due to the current circumstances. The GO makes it easier to arrange a bank loan or guarantee as the GO provides the bank with a State guarantee of a percentage of the amount obtained under the bank loan or guarantee.

The maximum guarantee percentage has been increased due to the current circumstances from 50% to 80% for large companies and 90% for SMEs, provided that these companies are affected by the corona crisis. A maximum of EUR 150,000,000.- per business can be taken out under the GO bank loan or bank guarantee.

One of the applicable requirements is that the loan in respect of which the company wishes to make use of GO should not be intended to replace an existing facility or to pass on existing risks to the State. For example, the GO scheme cannot be used to obtain:

- (i) an acquisition resource,
- (ii) (ii) more favorable financing conditions,
- (iii) (iii) a refinancing because of Breach or Covenants in respect of the company's current financing,
- (iv) (iv) or a refinancing and/or financing of regular repayments.

Application: a company can apply for this scheme with affiliated financiers. The relevant financier will subsequently submit the application to the Netherlands Enterprise Agency. Please find a list of the affiliated financiers on <https://english.rvo.nl/>.

## **1.2 Security Small and Medium-Sized Enterprises (SMEs)** (in Dutch: *Borgstelling Midden- en Kleinbedrijf* or *BMKB* and *BMKBC*)

Content: the government-guaranteed scheme for loans to SMEs available for SMEs. The BMKB scheme allows companies to take out loans under favourable conditions from a bank or other financiers and a number of credit unions. With this measure, the government guarantees part of the financing to companies that are in need of capital, but cannot provide enough security/collateral to the financier.

The BMKB has been broadened due to the current corona crisis and is now referred to as *BMKB-C*. Under the BMKB-C, the government guarantees 90% of 75% of the loan, which will effectively come down to a 67,5% government guarantee of the loan.

As a result, banks can extend credit more easily and quickly and companies have the opportunity to borrow earlier and more money. Moreover the scheme will be further extended and will also apply to bridging loans and overdraft facilities with a term of up to 2 years. The government reduced the premium for the BMKB-C scheme from 3.9% to 2%.

There will be a longer duration and a lower threshold for the BMKB corona regulation. The term of a loan will be extended to four years, giving entrepreneurs more time to repay it. Access to the BMKB will be made more accessible by means of a turnover test instead of an extensive liquidity forecast.

Application: A company can apply for this scheme with affiliated financiers. Please find a list of the affiliated financiers on <https://english.rvo.nl/>.

## **2. Measures with respect to the payment of taxes and reduced fines**

### **2.1 Request a deferment of tax payment**

Content: if a company has liquidity flow/payment problems due to the corona crisis, special tax deferrals can be requested from the Dutch Tax and Customs Administration.

Special deferral of payments can be requested for

- (i) income tax-,
- (ii) corporation tax-,
- (iii) turnover tax- (VAT) and
- (iv) wage tax debts.

According to the update of 2 April 2020, deferral of payments may also be requested for:

- (i) gambling tax,
- (ii) excise duties,
- (iii) the consumption tax on alcohol-free drinks,
- (iv) insurance tax,
- (v) landlord tax,
- (vi) energy tax and
- (vii) other environmental taxes.

From the moment the request is made, the payment of tax (for which the request was made) may be deferred for a period of three months. This relaxed deferral policy applies in any case until 19 June 2020. This also applies automatically to all new tax assessments with regard to the taxes for which deferral is requested and which fall within this 3-month period.

The Dutch Tax and Customs Administration will halt the collection of taxes upon receiving the request for deferment. A 3-month deferral of tax payments is granted automatically. This tax deferral policy is in effect until 19 June 2020. Any fines that may be imposed for the late payment of taxes do not need to be paid.

Application: the tax deferral can be requested by means of a letter to the Dutch Tax and Customs Administration in which the deferral of payment of tax is being requested together with an explanation how the Corona outbreak led to liquidity flow/payment problems. As far as it concerns the assessments of income tax, Healthcare Insurance Act (Zvw), corporation tax, wage tax and turnover tax (VAT), deferral of payment can be requested in one letter. You do not have to wait until an assessment for all five tax types is received, One assessment is sufficient. If you do not need a deferral for all five assessments, the remaining assessments simply can be paid within the regular deadlines. For other taxes a separate deferral of payment needs to be requested. This can also be done using the below mentioned form or by letter.

The request for tax deferral can be made by an online form that can be found [here](#), or by letter. The request by letter including the explanation can be sent to: "Dutch Tax and Customs Administration, P.O. Box 100, 6400 AC, Heerlen".

It is possible that you will receive an (additional) assessment with a fine if you do not pay your turnover tax or wage tax return on time. If you request a deferral of payment as a result of the corona crisis, you do not have to pay a fine. A decision will still be made about the date from which the fine will be reduced.

In the event a tax deferral period of three months is not sufficient for a company, a request can be made for a longer period of tax deferral. Additional conditions apply to be granted this additional period of tax deferral.

It is important that, even if a company will be granted deferral of paying taxes (of 3 months or longer), the tax returns still need to be filed within the regular deadlines. Otherwise the tax deferral cannot be granted.

## **2.2 Lowering the interest on overdue tax**

Content: normally, taxpayers pay 4% collection interest on overdue tax from the moment the payment term has expired. As of 23 March 2020, the collection interest will be temporarily reduced from 4% to 0.01%. This applies to all tax debts.

Application: the support measure is granted automatically, no application has to be submitted.

## **2.3 Lowering the interest on tax**

Content: the Dutch Tax and Customs Administration also charge tax interest if an assessment is made too late, for example because the tax return was not made on time or for the correct amount. The tax interest rate is 8% for corporate income tax and 4% for other taxes. The tax interest rate is also temporarily reduced to 0.01%. This reduction will apply to all types of tax that are subject to interest on tax. The temporary reduction of tax interest rate will take effect from 1 June 2020, except for income tax. For income tax, the reduction will take effect from 1 July 2020.

Application: the support measure is granted automatically, no application has to be submitted.

Please note that because the interest on overdue tax and the interest on tax is linked to the payment discount on lump sum payments (of provisional assessments of income tax or corporate tax) , the reduction of the interest rate is not only beneficial. This is because the same legal percentage is used for the payment discount as for collection interest, so that the reduction would mean that entrepreneurs would no longer be entitled to the payment discount. Tax payers who suffer from this can file an objection letter, after which the payment discount will still be granted. The interest on (overdue) tax to be reimbursed will remain at the existing level of 4%.

## **2.4 Reduction of advance tax payments on provisional tax assessments**

Content: many companies make advance tax payments on basis of provisional tax assessments, that are based on an estimated annual profit. If a company expects a lower profit as a consequence of the corona crisis a request can be filed to reduce the advance tax payments. These requests will be granted by the Dutch Tax and Customs Administration. The tax authorities will approve in principle such request, so that less tax is due.

Please note: if the provisional assessment is adjusted with the assumption that less or no profit is made for the rest of the year, the amount of the declared profit must be properly monitored. After all, the monthly amount of the provisional assessment affects the final assessment for the tax year in question. If too much tax is paid, the excess is returned to the taxpayer, but if too little is paid, additional payments must be made. When (more) profits are made in the rest of the year, it is best to change your provisional assessment again. In this way, you avoid having to make additional payments with your final assessment.

Application: for corporate income tax purposes, a company can lower the provisional assessment(s) in three ways, namely via:

- 1) the form in the new business portal: "Mijn Belastingdienst Zakelijk". Go to Log in for entrepreneurs, choose My Belastingdienst Zakelijk and log in with eHerkenning;
- 2) the form 'Request or change provisional corporate income tax assessment 2020' on the website of the Dutch Tax and Customs Administration.

Please note: if lowering the provisional assessment has been requested another way, it will not be taken into consideration by the Dutch Tax and Customs Administration.

## 2.5 Miscellaneous

On 24 April 2020, the government announced six new tax measures to mitigate the negative economic effects of the corona crisis. These support measures are of a temporary nature and mainly support entrepreneurs.

The six measures are:

- Reduction of the customary wage in the event of a fall in turnover;
- relaxation of the hourly criterion;
- A one-time increase in the free space in the working expenses scheme;
- Forms of a fiscal corona reserve;
- Postponement of the entry into force of the Excessive Borrowing Act at the company's own company;
- Payment break for mortgage obligations.
- These temporary tax measures will be further elaborated in the coming period.

Reduction of the customary wage in the event of a drop in turnover

Entrepreneurs working for a private limited company in which they hold a substantial interest are required to pay income tax on an appropriate wage or salary. This is called the customary wage scheme.

In principle, this tax must also be paid when the private limited company achieves less or no turnover. Due to the large loss of turnover in various sectors as a result of the corona crisis, an exception is granted for affected entrepreneurs for 2020.

Considerable stakeholders who are faced with a drop in turnover in their private limited company may assume a lower customary wage in proportion to the drop in turnover. To determine the fall in turnover, the relevant period of the year in 2020 will be compared with the same period in 2019.

#### Relaxation of the hour criterion

Entrepreneurs subject to income tax can, under certain conditions, claim various business facilities. For various entrepreneurial facilities, such as the self-employment deduction, the starter's deduction, the co-worker's allowance and the old-age reserve, it is required that the hour criterion is met. The entrepreneur must devote at least 1,225 hours per calendar year to work for his company in order to meet the hour criterion. In these times, this is not always possible and the government therefore wishes to meet these entrepreneurs.

For the period from 1 March 2020 up to and including 31 May 2020, entrepreneurs are therefore deemed to have spent at least 24 hours per week on their business. This number of hours has been chosen because it corresponds to the required 1,225 hours on a calendar year basis, whereby a rounding off in favour of the entrepreneur has taken place.

A supplementary arrangement is made for seasonal entrepreneurs where the peak of the work falls in the period from March to May inclusive. They are expected to spend the number of hours on the enterprise as they do in other years. The records from 1 March 2019 to 31 May 2019 will then make it possible to determine whether the hours criterion for 2020 is met.

#### One-time increase in the free allowance in the working expenses scheme

By making use of the free space in the work-related costs scheme, employers can allow allowances and benefits in kind to be paid to their employees untaxed. Since 1 January 2020, the free allowance was 1.7% for the first €400,000 of the wage bill per employer. The free allowance for this first €400,000 will be

increased once and temporarily to 3% for the year 2020. This will result in an additional free space of up to €5,200. For a wage and salary bill starting at €400,000 a free allowance of 1.2% applies unchanged.

#### Forms of a fiscal corona reserve in corporate income tax

In corporate income tax, it is possible to set off a loss of a tax year against the profit of the previous year. This is the carry back. Any loss in the year 2020 can therefore be set off against the profit for the year 2019. In this way, (part of) the corporate income tax already paid or to be paid for 2019 can be recovered.

The offsetting of losses therefore generates money and improves the liquidity position of a company. However, the loss relief can only take place at the time of the corporate income tax return for 2020. This tax return cannot be filed until after the annual accounts for 2020 have been adopted. Moreover, the 2019 corporate income tax assessment must be final. In most cases, this will not yet have been done at the time of the corporate income tax return for 2020. As was the case during the economic crisis in 2008, the government now considers this undesirable.

By means of a temporary arrangement, the government will make it possible for these companies to charge the expected loss for the year 2020 related to the corona crisis to the profit of the year 2019 as a tax corona reserve. This can then be done, for example, on the basis of a loss as shown in the provisional figures for 2020.

A framework has already been outlined with regard to the design of the scheme. This is because the tax corona reserve will not exceed the taxable profit for 2019 without taking this reserve into account. By forming a fiscal corona reserve, a refund of the corporation tax previously paid and/or payable in respect of 2019 can be effected.

A legislative amendment is being prepared for this purpose. In anticipation of this, the obligations and conditions for claiming the tax corona reserve will be published in a policy decision.

#### Postponement of entry into force of legislative proposal Borrowing excessively from own company (in Dutch: *Wet excessief lenen bij de eigen vennootschap*)

The entry into force of the Excessive Borrowing Act from the company's own company was scheduled for the beginning of 2022. This legislative proposal makes it possible to tax debts of substantial interest holders/directors-major shareholders (in Dutch: *DGA's*) to their own company that exceed € 500,000 (excluding housing debts).

As a result of the corona crisis, it may be more difficult for DGA's to repay debts in the run-up to the entry into force of the law. The entry into force will be postponed until the beginning of 2023 with the government's measure. This means that the DGA's have until 31 December 2023 (first reference date) to anticipate the bill.

#### Payment break for mortgage obligations

In the short term, a policy decision will be published providing for some approvals with regard to temporary deferral of payment of the mortgage loan for the owner-occupied home debt. Subject to conditions, a deferral of redemption and interest will not lead to undesirable tax consequences.

### **3. Income and salary compensation**

#### **3.1 Temporary Support Scheme for Self-Employed Persons** (in Dutch: *Tijdelijke overbruggingsregeling zelfstandig ondernemers or Tozo*)

Content: the Tozo is available for independent contractors, including self-employed workers without employees. The independent contractors that meet the criteria as set by the government can apply for additional income support in an expedited procedure, which will help them pay their costs of living for a three-month period. The maximum income support amounts to €1,500,- net per month. Under this scheme, their income will be topped up to the amount of the social minimum wage. The income support does not have to be repaid. Alternatively, under this temporary scheme, independent contractors can apply for a working capital loan at a favourable interest rate.

Application: The scheme has a retroactive effect to 1 March and will remain until 1 June 2020. If an independent has run into financial problems as of 1 March 2020, as a result of Corona-related measures, he can submit an application to the municipality in which the contractor resides.

#### **3.2 Compensation for Entrepreneurs in impacted Sectors COVID-19** (in Dutch: *Tegemoetkoming Ondernemers Getroffen Sectoren covid-19 or TOGS*)

Content: the Compensation scheme for impacted sectors COVID-19 is available for SMEs (with and without personnel) that suffer damages due to forced closure, restriction of meetings and/or negative travel advice

based on governmental measures. Companies that meet the required criteria and have their main business in one of the appointed sectors (i.e. restaurants, cafés, cinemas, hairdressers etc.), can apply for a compensation of €4,000 net to pay their fixed costs, such as the rent of a business premises.

The company must be established in the Netherlands and the main or secondary activity must be registered by the Commercial Register before the reference date of 15 March 2020 kept by the Chamber of Commerce. Payment of the compensation will take place as soon as possible after the application has been submitted.

Application: a business can apply for this compensation by a digital form at the the Netherlands Enterprise Agency (in Dutch: *Rijksdienst voor Ondernemend Nederland* or *RVO*). This measure is valid since 27 March up to and including 26 June 2020.

### **3.3 Temporary Emergency Bridging Measure to Preserve Employment** (in Dutch: *Noodmaatregel Overbrugging Werkgelegenheid* or *NOW*)

Content: an entrepreneur who expects a loss of turnover (at least 20%) for a period of three months can apply to the Employee Insurance Agency (in Dutch: *UWV*) for an allowance for wage costs (maximum 90% of the wage bill, depending on the loss of turnover). The start date of this three month period is the 1<sup>st</sup> of March, April or May 2020. The UWV will provide an advance payment of 80% of the requested allowance. This will enable companies to continue to pay their staff. A condition for granting this measure is that no staff may be dismissed for business economic reasons during the subsidy period.

Entrepreneurs will be able to apply for compensation for a reduction in turnover as from 1 March and Employers have been able to apply since Monday 6 April.

A recent update (22 April) on the NOW is that for groups of companies with less than 20% loss of sales, it shall be possible to individual operating companies apply for subsidies for their labour costs at basis of the decline in turnover of the operating company. To this possibility additional conditions are attached. The most important are:

- (i) the group to which the employer belongs declares that it will not pay any dividend or bonuses for 2020 or buy back its own shares.
- (ii) the employer with 20 or more employees must have an agreement with the trade unions concerned on job retention, the employer with less than 20 employees must reach this agreement with a representation of the employees.

- (iii) the other companies in the group may not carry out assignments or projects to the detriment of the employer applying for the NOW, which would normally carry out these assignments.

In addition, there will be additional requirements that must be verified by the auditor.

Application: an entrepreneur can apply for this measure by a digital form at the Employee Insurance Agency. This is possible since the 6<sup>th</sup> of April.

As mentioned above, from June onwards, the government of the Netherlands will present a second support package for companies in difficulty as a result of the corona crisis. The exact details of the package are still unknown, but the NOW scheme will in any case continue to play a central role in the package. It is also clear that the dismissal penalty, which was part of the original NOW scheme, will be abolished on 1 June.