

An abstract graphic consisting of multiple overlapping, wavy lines in a vibrant blue color. These lines are composed of small dots and create a sense of motion and depth, resembling a digital signal or a stylized wave. The graphic spans the width of the slide, with a central point where the lines appear to converge or cross.

**Baker
McKenzie.**

COVID-19

Government Intervention Schemes

Current as of 5 June 2020



Government Intervention Schemes



Countries around the globe are facing unprecedented and rapid change due to the COVID-19 pandemic. This guide provides a summary of key government interventions around the globe in relation to: EU State Aid Approvals (for EMEA region), foreign investment restrictions, debt, equity and taxation.

- **Foreign Investment Restrictions:** Businesses and investors must carefully consider foreign investment review risks at this highly sensitive and volatile time. Taking the time to understand the rules, which are changing day after day, and identify a regulatory strategy, including appropriate messaging and communication with the relevant governmental authorities, and the consequential impact on deal documentation.
- **Debt & Insolvency:** In response to COVID-19, governments have announced various measures to support companies' debt arrangements including deferred payments, guaranteed credit facilities, and government-backed loans. Some jurisdictions have also put in place measures, in some instances on a temporary basis and in others more permanently, to reform their insolvency regimes 'in order to help manage the anticipated increase of companies in financial distress situations.
- **Equity:** While still in the minority, some governments have announced or are considering various (semi-) equity support measures to support businesses. Such measures may include, among others, taking an equity stake, purchasing convertible bonds and subordinated loans.
- **Taxation:** Similarly, governments have announced new taxation measures to support businesses including deferral of payments, expedited customs clearance and suspension of interest on tax payments.
- **EU State Aid Approvals:** Due to the rapid impact on EU Member States' economies directly resulting from COVID-19, the EU Commission has taken measures (the 'Temporary Framework'), explained in this guide, which permit fast-track COVID-19 State aid approvals in certain areas including State guarantees for loans.

A **summary** of measures per jurisdiction is provided on the following pages. It can be accessed throughout the document by clicking on the icon shown on the right.

If you would like **further information**, contact your relationship partner, the key partners for this publication (details on page 5) or our multi-disciplinary team via our dedicated helpdesk: **COVID-19 Government Intervention Schemes Helpdesk**.

You can also visit **Baker McKenzie's 'Beyond COVID-19: Resilience, Recovery & Renewal' Resource Hub** to access a wealth of reference materials on this topic.

The COVID-19 situation is evolving and so too are government responses. As we continue to review government responses across multiple jurisdictions, this guide is intended to provide an overview of certain key measures in specific jurisdictions. The high level overviews in this document are not intended to be comprehensive legal advice.

Navigate to:

Regional insights



EMEA



Americas



Asia Pacific

Summary



Legend:



= newly added chapter since 29 May 2020 publication



= updated since 29 May 2020 publication

Summary of measures in place



To go to the relevant chapter, please click on the flag

EMEA																							
EU State Aid Approvals																							
Foreign Investment Restrictions																							
Debt																							
Insolvency																							
Equity																							
Taxation																							

= measures in place; please refer to chapter for details = no measures in place in specific response to COVID-19

blank = not (yet) included in this guide or N/A

Summary of measures in place



HOME

EMEA

AMERICAS

AP

To go to the relevant chapter, please click on the flag

Americas	Argentina	Brazil	Canada	Chile	Colombia	Mexico	Peru	US	Venezuela
Foreign Investment Restrictions									
Debt									
Insolvency									
Equity									
Taxation									

APAC	Australia	China	Hong Kong	Indonesia	Japan	Malaysia	Philippines	Singapore	Taiwan	Thailand	Vietnam
Foreign Investment Restrictions											
Debt											
Insolvency											
Equity											
Taxation											



= measures in place; please refer to chapter for details



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Navigate to:

Regional insights



EMEA



Americas



Asia Pacific

Summary



Helpdesk

If you have any queries relating to Government Intervention Schemes, email our Helpdesk with as much detail as possible and the appropriate person will be in touch:

[Baker McKenzie COVID-19 Government Intervention Measures Helpdesk](#)

EMEA



Austria



Hungary



Saudi Arabia



UK



Bahrain



Italy



South Africa



EU



Belgium



Luxembourg



Spain



Czech
Republic



Morocco



Sweden



Egypt



Netherlands



Switzerland



France



Poland



Turkey



Germany



Russia



Ukraine





Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals



First scheme with a total estimated budget of EUR 15 billion has been approved. The scheme allows for the provision of aid in the form of (i) **direct grants, repayable advances and guarantees** with a maximum of EUR 800.000 per company; (ii) **State guarantees** for loans subject to safeguards for banks to channel State aid to the real economy; and (iii) **subsidised public loans** to companies, with favourable interest rates (8 April)

Second measure which will provide **100% guarantees for underlying loans** up to an amount of €500,000 (except for the agricultural and the fisheries and aquaculture sectors, where the 100% guarantees are limited to underlying loans up to an amount of €100,000 and €120,000, respectively). For loans above those thresholds, the schemes will provide **90% guarantees for underlying loans up of €25 million**. The measure is limited to SMEs (16 April)

Third measure consisting of an aid package of 10 different measures. The aid takes the form of **direct grants, equity contributions and advance payments**. The purpose of the scheme is two-fold: (i) to support undertakings affected by the COVID-19 outbreak, and (ii) to support investment in R&D, testing and production of products that are relevant to the coronavirus outbreak. The total estimated budget is EUR 88 million (19 May).

Fourth measure consisting of **direct grants** to SMEs and large undertakings having a decrease of turnover of at least 40% in the second quarter of 2020 or the chosen reference period of 1, 2 or 3 months between 15 March and 15 September 2020. The direct grants can cover **up to 75% of the fixed costs of the beneficiaries for a period of 3 months with a max. of EUR 90 million per undertaking**. The total estimated budget is EUR 8 billion (23 May).

Foreign Investment Restrictions

The responsible Minister for Economics announced in April 2020 that the government is working on a legislative proposal on a new law (under the title "Investment Control Act") which is intended to replace the current regime (one specific provision in the Foreign Trade Law). The aim is to tighten foreign investment control, and one of the measures (according to media reports) would be to extend the scope of the screening by lowering the current 25% threshold to 10%.



Home



Summary



EMEA



AMERICAS



AP

Debt

The Austrian Federal Government set up an initial COVID-19 Fund of EUR 4 billion, to provide support to companies mainly in the form of loans with terms, conditions and termination provisions that are more favourable than those on the market. It subsequently added to that an additional EUR 36 billion package consisting of EUR 15 billion in emergency aid for particularly affected sectors; EUR 10 billion for tax deferrals and EUR 9 billion for guarantees and warranties for current loans of affected companies; and an additional EUR 2 billion working capital credit lines for affected exporting companies.

Exclusions

- Companies must have their registered office or a permanent establishment in Austria.
- Must carry out their "essential operational activities" in Austria, i.e., foreign activities must not be "more important" than those in Austria.
- Must be economically healthy, with business activities in Austria that suffer 'financial difficulties' due to COVID-19.

Insolvency



Is state support for distressed business available?

The federal government has set up a COVID-19 state support package of initially EUR 4 billion, which was made available to distressed businesses mainly in form of direct grants (micro-enterprises) and short-time working aid. The fund's resources were later extended to up to EUR 28 billion.

Additionally, a financial aid package of up to EUR 34 billion has been introduced consisting of the following measures:

- EUR 15 billion in emergency aid for particularly affected sectors ("Corona Relief Fund")
- EUR 10 billion for tax deferrals
- EUR 9 billion for guarantees and warranties for current loans of affected companies

This package is made available through a mix of instruments adapted to the respective needs of the sectors (e.g., loans and warranties).



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Extension of application period: In general, upon the occurrence of insolvency, managers of an affected company are obliged under Section 69 IO to file for the opening of insolvency proceedings without undue delay, but no later than 60 days after the occurrence of insolvency. In the event of insolvency due to a natural disaster (such as the coronavirus pandemic), this period is extended to 120 days.

Postponement of enforcements: Pursuant to Section 200b of the Austrian Enforcement Act *Exekutionsordnung*), a debtor can file for the postponement of an enforcement if it is affected by a natural disaster (such as the coronavirus pandemic).

Filing exemptions: In light of COVID-19, the Austrian legislator has amended the filing requirements under the IO. A debtor is not obliged and a creditor is prohibited from filing for the opening of insolvency proceedings in case of over-indebtedness if such over-indebtedness is occurring in the period from 1 March 2020 to 30 June 2020. Please note that the filing is still necessary if, in addition to being over-indebted, a debtor is also unable to pay its due obligations.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

As of 30 April 2020, the federal government has not announced any further plans to reform the insolvency regime.

Equity

No (semi-) equity support measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate income tax

- Prepayments for income or corporate tax can be reduced more easily (even to zero) by submitting a request.
- Specific interest due (which results from an additional claim assessed in an income or corporate tax decree) can be reduced (also to zero) by request. Such reduction will however not become effective - regarding income and corporate tax for 2019 – until 1 October 2020.

Social security / Employment / Wage taxes / Personal Income Tax

N/A

VAT

No interest will be charged in case of a respite for tax payments, if a request is filed.

Excise / Import duties

N/A

Other taxes

N/A

Comments

Austria has announced reliefs for tax payments in order to secure the taxpayer's liquidity.

Deadlines for filing returns are not extended automatically. If the taxpayer wants to extend a deadline, a specific request is still required.

- No interest will be charged in case of a respite for tax payments (currently, 3.88% interest become due per annum) if a respective request is filed (the request is also simplified).
- Surcharges for late payments of taxes due can also be reduced (even to zero) upon request. Such request is recommended for monthly or quarterly prepayments of VAT and also, for example, for payroll tax.

A combined form for all reliefs can be found on <https://www.bmf.gv.at/public/informationen/coronavirus-hilfe.html>

Foreign Investment Restrictions

No new measures have been announced in specific response to COVID-19.

Debt

The government launched a financial and economic stimulus package worth BD 4.3 billion (approximately US\$ 11.3 billion) to support Bahraini residents and the private sector. The measures include:

- a. the deferral of monthly work fees and fees for issuing and renewing work permits for a period of 3 months commencing from 1 April 2020;
- b. subsidising individual and corporate Electricity and Water Authority (EWA) utility bills for 3 months commencing from April 2020 (as long as the amounts do not exceed the amounts paid during the same period in 2019);
- c. exempting all individuals and businesses from municipal fees for 3 months commencing from April 2020;
- d. exempting all individuals and businesses from industrial land rental fees for 3 months commencing from April 2020;
- e. exempting all companies in the tourism industry from tourism related levies for 3 months commencing from April 2020;
- f. increasing the Liquidity Support Fund to BHD 200 million (approximately US\$ 530 million);
- g. working with the CBB to issue directives to raise the lending capacity of financial institutions in Bahrain (equivalent to circa BD 3.7 billion (approximately US\$ 9.8 billion) to enable financial institutions to reschedule debt, suspend interest payments, extend payment instalments, provide more credit, etc.); and
- h. redirecting all the programmes of Tamkeen (a semi-autonomous government agency that provides loans and assistance to Bahraini individuals and SMEs) to support financially distressed companies, as well as the restructuring / rescheduling Tamkeen loans.

Debt Moratoria

The Central Bank of Bahrain (CBB) has issued 10 regulatory measures to contain the financial repercussions of COVID-19, namely:

- i. any credit card holder or impacted borrower must be offered 6 months deferral of instalments at no fees, no increase on interest and no increase in rate, unless the customer agrees for a shorter period;
- ii. the loan to value ratio (LTV) rates for new residential mortgages for Bahrainis shall be reduced. Note: this does not apply to Mazaya loans;
- iii. increasing near field communication (NFC)/ contactless payments limit to BD 50 (approximately US\$ 130) without the need to use a PIN code;

Debt

- iv. capping merchant fees imposed by local acquirers on debit card transactions at 0.8% and such fees must be distributed as follows: 0.35% to the acquirer, 0.25% to the issuer, 0.2% to the benefit company;
- v. the CBB will provide retail banks concessionary repo arrangement up to 6 months at 0% on a case, by, case basis (here, the CBB will require licensees to submit their cash flow projection until FYE 2020 for CBB's assessment and consideration);
- vi. reducing cash reserve ratio for the retail banks from 5% to 3%;
- vii. excluding the deferrals mentioned in (i) above, the number of days past due for stage 1 expected credit loss (ECL) must be increased up to 74 days with effect from 1 February 2020;
- viii. the cooling off period for reclassifying restructured facilities from Stage 3 to Stage 2 is reduced from 12 months to 3 months;
- ix. liquidity coverage ratio (LCR) and net stable funding ratio (NSFR) limits for all locally incorporated banks are reduced from 100% to 80%; and
- x. risk weight for capital adequacy purposes for Bahraini SMEs is reduced from 75% to 25%.

The CBB has sent multiple notices to all of its licensees (i.e., all banks, financing companies and micro financing companies) (the CBB Notices).

- A. On 5 March 2020, the CBB sent a notice to all its licensees to consider granting all types of concessions (e.g., deferrals on payments, rescheduling debt, reducing profit/ interest rates, fees and commissions) in light of COVID-19 (the First CBB Notice).
- B. On 8 March 2020, the CBB has sent a second formal notice to all of its licensees to take measures to mitigate the impact of coronavirus on customers (the Second CBB Notice).
- C. On 12 March 2020, the CBB has sent a third formal notice to all of its licensees setting out the services continuity measures (the Third CBB Notice). Pursuant to the Third CBB Notice:
 - i. businesses continuity and disaster recovery plans must be ready for activation at any point in time;
 - ii. international and local funds transfer systems must operate effectively;
 - iii. CBB will ensure that ATMs are regularly loaded with cash;
 - iv. all trade finance transactions must be effected as per terms and conditions agreed with the relevant customers; and
 - v. customers must have access to banking services electronically and through designated branches.

Debt

- D. On 17 March 2020, the CBB has sent a fourth formal notice to all of its licensees, outlining the regulatory measures as set out in point 1 above (the Fourth CBB Notice).
- E. On 19 March 2020, the CBB has sent a fifth formal notice to all of its licensees and companies whose shares are listed on Bahrain Bourse ("listed companies") relating to safety guidelines to follow in upcoming general meetings (the Fifth CBB Notice).
- F. On 23 March 2020, the CBB has sent a sixth formal notice to all of its licensees with implementation guidelines with regards to deferring loan installments for a period of 6 months (the Sixth CBB Notice). Pursuant to the Sixth CBB Notice:
 - i. Although all licensees must push back principal payments for a period of 6 months commencing from March 2020, licensees may still accrue interest/profit on these principal amounts (provided the monthly rate does not exceed the rate paid before).
 - ii. The deferral option will only cover on and off balance sheet cover exposures as of 19 March 2020 and exclude:
 - a. exposures classified in Stage 3 which are not serving the reduced cooling off period;
 - b. financing instalments received through court;
 - c. credit syndication facilities to resident corporates involving non-resident participating lenders;
 - d. pre-export financing under letters of credit without recourse to the resident corporate (exporter);
 - e. overdraft facilities; and
 - f. leveraged investments/margin call facilities.
 - iii. Discounted cheque facilities will be included as part of the deferral option in so far as new cheques are received if required. Similarly, progress payment discounted facilities are included in the deferral option if payment is not received.
 - iv. The cost of any extension in relation to life insurance policy shall continue to be borne by the borrower.
 - v. A claims moratoria will apply in respect of:
 - a. a personal and corporate guarantee;
 - b. collateral foreclosure; and
 - c. post-dated cheques until 30 December 2020.

Debt

vi. A CBB licensee has the discretion to apply an instalment deferral in respect of (a) foreign borrowers and (b) a borrower who decides the deferral option in March 2020.

G. On 24 March 2020, the CBB has sent a seventh formal notice to all of its licensees (the Seventh CBB Notice). Pursuant to the Seventh CBB Notice, the CBB reverted to its original approach, which is that both interest and principal are to be deferred and pushed forward by 6 months without any extra interest/profit or fees charged to the customer.

As far as we are aware, some banks have put some measures in place in respect of this notice.

Examples:

1. National Bank of Bahrain (NBB) issued a formal alert to all its clients to confirm they will be deferring all monthly loan instalments for Bahraini customers - individuals and business customers alike - for up to 6 months commencing from March 2020, with no additional fees and no increase in interest rate.
2. Bank of Bahrain and Kuwait (BBK) issued a formal alert to its retail customers stating that consumer, car and mortgage loan instalments are automatically deferred for a period of 6 months commencing on March 2020 at no additional fees and no increase in interest rate (March 2020 instalments deducted will be refunded).
3. Ahli United Bank (AUB) issued a formal alert to all its customers to confirm they will be deferring all business, consumer, mortgage, auto loans and credit card instalments for Bahraini customers for a period of 6 months commencing from March 2020. There will be no changes in the interest rate and instalments already paid during March will be refunded. Based on our understanding, CBB held various meetings with its licensees to discuss how best each licensee can implement these measures. The licensees are still in the process of finalising implementation plans. Accordingly, the details above are still "work in progress" at this point in time.

Further information on the measures is available on the CBB website:

https://cbb.complinet.com/cbb/display/display.html?rbid=1820&element_id=4102

Equity

No (semi-) equity support measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals

A **first measure** consisting of a **loan guarantee scheme** for new and existing loans to undertakings of all sizes that cannot benefit from the federal guarantee scheme (see second measure) and that are active in the Flemish Region.

The total estimated budget is EUR 3 billion. (9 April)

A **second measure** consisting of a **loan guarantee scheme** providing aid in the form of guarantees on portfolios of qualifying loans to undertakings of all sizes.

The total estimated budget is EUR 50 billion. (11 April)

A third measure deferring the payment by Walloon airports of concession fees to the Walloon Region to mitigate the economic impact of the coronavirus outbreak on those airports. (11 April)

A fourth measure consisting of direct grants up to EUR 3 000 per undertaking active in the primary production of agricultural products and in aquaculture for the food sector, based in the Brussels-Capital Region.

Total budget estimated at EUR 200,000 (24 April).

A **fifth measure** consisting of a EUR 4 million Belgian **direct grant scheme** to support coronavirus related **research and development (R&D) projects** in the **Brussels-Capital region**. (27 April)

A **sixth measure** consisting of an EUR 530 million scheme, financed by the **Walloon region**, to support companies in the context of the coronavirus outbreak through **guarantees under four different guarantee schemes** (4 May).

A **seventh measure** consisting of a **subordinated loan scheme of the Flemish Region for start-ups, scale-ups and SMEs** with a total estimated budget of EUR 250 million (5 May).

An **eight measure** consisting of a **second subordinated loan scheme** for start-ups, scale-ups and SMEs active in the Flemish Region. The estimated budget is EUR 250 million (11 May).

A **ninth measure** consisting of aid in the form of **direct grants and repayable advances** to support **coronavirus related research and development (R&D) and investments in the production of products** relevant to the coronavirus outbreak in the **Walloon Region**. The total estimated budget is EUR 25 million (12 May).



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals

A **tenth measure** was approved on 14 May. It consists of a EUR 500 million guarantee (reinsurance) administered by Credendo (credit export agency) to guarantee loans to companies which realize at least 30% of their turnover from exporting activities.

An **eleventh measure** is conceived **as a stop loss mechanism in the form of a quota-share reinsurance of short-term credit and surety risks**. Total budget is estimated at EUR 903 million which is the maximum loss the Belgian State can incur (15 May).

Foreign Investment Restrictions

No new measures have been announced in specific response to COVID-19.

Debt

Debt moratorium for commercial credits

The Belgian federal government, the National Bank of Belgium and Febelfin (i.e., the association of the Belgian financial sector) have agreed on a debt moratorium for borrowers and credit facilities that comply with certain criteria. The conditions are set out in a charter.

What

A deferral of repayment of principal amounts of maximum six months by certain borrowers in respect of certain credit facilities.

Interest payments are not affected by the debt moratorium.

After the deferral period, the payment of principal will resume. The maturity of the credit will be extended by a period equal to the deferral period (i.e., which is maximum six months). The bank may not charge additional administrative costs for the implementation of the debt moratorium



Home



Summary



EMEA



AMERICAS



AP

Debt

Eligible borrowers

In order to be eligible for such debt moratorium, a borrower must comply with each of the following criteria:

- it is a non-financial enterprise, small or middle size enterprise, self –employed or a non-profit organisation;
- it is permanently established in Belgium;
- it is facing payment difficulties because of the COVID-19 crisis, evidence of which can be easily provided if:
 - its revenues or activities have decreased or will decrease;
 - it has invoked in whole or in part temporary or full unemployment;
 - or the government ordered the closure of its business in the context of the measures against the COVID-19 virus on 1 February 2020;
 - it has not incurred payment arrears in respect of its outstanding credit facilities, tax or social security contributions or on 29 February 2020;
 - it has not incurred payments arrears of more than 30 days in respect of its outstanding credit facilities, tax or social security contributions; and
 - it has not been in breach of any of its contractual credit obligations towards any of its banks during the last twelve months prior to 31 January 2020 and it is not involved in an active credit restructuring.

Eligible credit facilities

The following credit facilities between an eligible borrower and a bank: credit facilities with a fixed repayment schedule; overdraft facilities; straight loans (vaste voorschotten / avances à terme fixe).

Factoring and leasing do not fall within the scope of application of the debt moratorium.

Application and duration of deferral period

Eligible borrowers who would like to make use of this debt moratorium should contact their bank.

If the request for the payment deferral is made before 30 April 2020, the payment deferral will end after a maximum period of six months until 31 October 2020.

If the request is made after 30 April 2020, the payment deferral will end on 31 October 2020 at the latest.

The Belgian federal government, the National Bank of Belgium and Febelfin also agreed on a similar debt moratorium for mortgage credits granted to natural persons.



Home



Summary



EMEA



AMERICAS



AP

Debt

Federal State guarantee

The Belgian Royal Decree of 14 April 2020 implements a state guarantee scheme for certain credits that comply with certain conditions (a summary of which is set below). The state guarantee will be granted for a total aggregate amount of EUR 50 billion which will be divided over the eligible credit providers in accordance with the rules set out in the Royal Decree.

The state guarantee scheme automatically applies to all eligible credits that are granted to eligible borrowers by eligible credit institutions (i.e., the scheme is not an opt-in / opt-out arrangement pursuant to which the credit providers can choose which credits will benefit from the scope of application).

Eligible credits

All credits with a maximum maturity of 12 months (including credits granted for an indefinite duration which can be terminated by the credit provider during the first 12 months) granted by an eligible credit provider to an eligible borrower between 1 April 2020 and 30 September 2020, but excluding:

- refinancing credits;
- re-utilisations of credits granted before 1 April 2020;
- credits to be used exclusively for the financing of non-Belgian activities;
- credits that have been de-selected by the credit provider from the scope of application of the guarantee scheme (under certain conditions);
- leasing agreements;
- factoring agreements; and
- consumer credits.

Credits facilities granted in the context of a syndicated facility or a club deal may also fall within the scope of application of the guarantee scheme under certain conditions.

The credits may only be used to finance Belgian activities or certain qualifying foreign activities (subject to certain limits and conditions).



Home



Summary



EMEA



AMERICAS



AP

Debt

Eligible credit provider

Belgian credit institutions and Belgian branches of non-Belgian credit institutions which granted credits in respect of which an aggregate principal amount of at least EUR 20,000 was outstanding on 31 December 2019.

Eligible borrower

Each non-financial enterprise (as defined in the Royal Decree) which complies with the following conditions:

- it is registered with the Belgian Crossroads Bank for Enterprises;
- on 1 February 2020 it has not incurred payment arrears in respect of its outstanding credit facilities, tax or social security contributions or on 29 February 2020, it has not incurred payments arrears of more than 30 days in respect of its outstanding credit facilities, tax or social security contributions;
- on 31 January 2020 it was not involved in an active debt restructuring with one or more credit institutions; and
- on the basis of the available information it is not an enterprise in difficulties (as defined in the Royal Decree).

Maximum guaranteed amount

Credits that fall within the scope of application are only guaranteed by the federal government guarantee scheme arrangement up to a maximum guaranteed amount determined in the Royal Decree which shall in any case not be higher than the amount per enterprise on a "group" basis equal the lower of (i) EUR 50,000,000 (although the borrower can request the government to allow for a higher amount under certain conditions) and (ii) the amount of the forecasted liquidity needs of the Borrower for a period as set out in the Royal Decree and as calculated in accordance with the Royal Decree.

Maximum guarantee interest and guarantee fees

The maximum guaranteed interest is 1.25% per annum (and credit providers may not charge a higher interest), and the maximum guaranteed guarantee fee is 25 bps per annum for SMEs (as defined in the Royal Decree) and 50 bps per annum for other enterprises.

Other conditions

The borrowers and banks will also have to comply with certain undertakings set out in the Royal Decree in order to be able to benefit from the federal government guarantee.



Home



Summary



EMEA



AMERICAS



AP

Debt

Loss sharing

Upon expiration of the guarantee arrangement, the Belgian financial sector and the banks will evaluate the loss incurred in respect of the credits which benefited from the guarantee arrangement. It is important to note that the loss will not be calculated on the basis of each individual credit but on the portfolio of credits granted by the relevant bank that fall within the scope of application of the federal government guarantee scheme.

The loss on the portfolio of the relevant bank will be divided by the Federal State and the bank in accordance with the following principles:

- if the loss between 0% and 3%, 100% of the loss will be borne by the bank;
- if the loss is between 3% and 5%, the Belgian federal state will bear 50% of the loss and the bank will bear the other 50%, and
- if the loss is 5% and 100%, 80% of the loss will be borne by the federal state, the other 20% will be borne by the relevant bank.

Regional government support measures

Several regional governments have also taken measures in order to provide financial support to companies that are facing difficulties because of the COVID-19 crisis. However, the majority of these measures aim to provide support to small and middle – sized enterprises. For large enterprises, it is worth noting that in Flanders PMV - Gigarant will implement an additional Corona - guarantee.

Insolvency



Is state support for distressed business available?

A large and ever-expanding set of government support initiatives are being taken by the federal and regional governments in order to help companies overcome the economic impact of COVID-19. There is, for example, a deferral of payment of VAT, withholding tax and social security as well as a possibility of placing employees under a system of temporary unemployment. In addition, the Belgian federal government and the financial sector have reached an agreement pursuant to which banks undertake to grant viable non-financial enterprises with a deferral of principal repayments on loans and credits for six months without charging any additional costs. Another key support measure is an up to EUR 50 billion state guarantee scheme for short-term liquidity loans. For more information, please consult

<https://www.bakermckenzie.com/en/insight/publications/2020/03/covid19-government-intervention-schemes>.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

The following measures apply from 24 April 2020 until 17 June 2020: (i) a moratorium on bankruptcies, (ii) a prohibition to take or continue enforcement measures and (iii) a prohibition to terminate contracts entered into prior to 24 April 2020 for reasons of non-payment.

For more information, please consult <https://insightplus.bakermckenzie.com/bm/international-commercial-trade/royal-decree-nr-15-moratorium-on-bankruptcies-and-enforcement-measuresfor-non-payment>.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

No. However, the moratorium on bankruptcies and enforcement measures as referred to above might be extended beyond 17 June 2020.

Equity

No (semi-) equity support measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate income tax

- Filing deadline for tax returns for which the filing deadline was 16 March 2020 or later, is extended to 30 April 2020.
- An additional period of two months is granted for the payment of CIT, non-residents' tax and legal entities' tax on top of the normal payment period. The latter measure is applicable with respect to tax assessments issued as of 12 March 2020.

Social security / Employment / Wage taxes / Personal Income Tax

N/A

VAT

- The filing deadline for VAT returns/intra-community statements due for February 2020 is extended to 6 April 2020. The filing deadline for VAT returns due for March 2020 / the first quarter of 2020 is extended to 7 May 2020.
- The deadline for filing the yearly client listing, which is normally due by 31 March 2020, is extended to 30 April 2020.
- Automatic payment deferral of two months is granted for any VAT due. The payment deadline for the VAT due by February 2020 is extended to 20 May 2020 and the payment deadline for the VAT due by March 2020 (and for the first quarter of 2020 in case the taxpayer only has to file a VAT return quarterly) is extended to 20 June 2020.

Excise / Import duties

Kortrijk and Blankenberge have confirmed that they will not levy tourist tax for the first half of 2020. Some other cities (such as Ghent) have decided to postpone payment of all taxes (including tourist tax). Many other cities currently seem to consider to take such measures as well (e.g., Leuven).

Brussels region: a waiver for the city tax (lump sum tax of 0.09 EUR per night per room used by a tourist) will be granted for the first semester of 2020.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Other taxes

Personal income tax: A period of two months is granted for the payment of personal income tax, on top of the normal payment period.

Payroll tax: Extension of the deadline for payment related to February 2020 to 13 May 2020 and the payment of the payroll tax due related to March 2020 or related to the first quarter of 2020 is extended to 15 June 2020.

Comments

Several other tax measures are adopted with respect to payment arrangements: regarding outstanding debts:

1. instalment payment plan: In case such an instalment payment plan is granted, no late payment interest will in principle be due if the latter is also requested by the taxpayer in question (see support measure (2i) below) which is an important difference with respect to 'normal' instalment payment plans);
2. an exemption from late payment interest. Such measure can be requested individually or together with the request for an instalment payment plan to avoid that late payment interest would be due in case such an instalment payment plan is obtained;
3. a waiver of fines relating to non-payment of taxes.

These measures can be requested with respect to the following taxes (i) payroll taxes, (ii) VAT, (iii) corporate income tax, (iv) personal income tax and (v) legal entity tax. The company requesting these measures must show proof that the company is experiencing financial difficulties as a result of COVID-19. To this end, the request will have to be justified by way of a short explanation of the impact of COVID-19 and be supplemented by any relevant supporting documents.

- the request for (one or more) of the support measures has to be filed by submitting a form by e-mail or letter to the competent Regional Tax Collector prior to 30 June 2020. More particularly, one form has to be submitted per tax debt for which one or more of the support measures is requested. The relevant form and contact details of the competent Regional Tax Collector can be found on the website of the Federal Public Service Finance.



To read more about this topic, please see this alert: [Transfer pricing in and beyond COVID-19 times - impact on intercompany royalties](#)



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals



A **first measure** consisting of a **direct grant scheme** aimed to support investments by SMEs in the production of coronavirus-relevant products such as medicines, medical equipment and protective clothing.

The total estimated budget is EUR 37 million. (14 April)

A **second measure** with a total estimated budget of EUR 5.2 billion consisting of a **loan guarantee scheme** on new and existing working capital loans and new investment loans for large companies with a share of exports of goods and services of at least 20% of their annual sales revenues in 2019 and for their suppliers. (5 May)

A **third measure** with a total budget of EUR 7.2 million consisting of **direct grants covering 75% of eligible costs related to R&D activities** relevant to combat COVID-19. (7 May)

A **fourth measure** consisting of aid in the form of **State guarantees** for new working capital loans for a maximum amount of EUR 1.9 million to undertakings with up to 500 employees. The total estimated budget of the scheme is EUR 18.5 billion (15 May).

A **fifth measure** consisting of aid in the form of **direct grants** to support retail businesses and service companies renting premises that were obliged to suspend their operations during the COVID-19 outbreak. The direct grants will amount to 50% of the original rent or lease due (80% in case premises are State owned) for the months of April, May and June 2020, with a maximum of +/- EUR 370,000. The estimated budget is EUR 184.3 million (2 June).

A **sixth measure** consisting of a scheme to support SMEs active in the primary agricultural sector affected by the coronavirus outbreak in the form of **direct grants**. The aid is specifically intended to partially reduce the outstanding amounts of operating bank loans to these SMEs and will cover up to 50% of the unpaid loan amount, up to a maximum of EUR 5,500. The total estimated budget is EUR 36.3 million (3 June).

Foreign Investment Restrictions

No specific screening procedure has been adopted in response to the current situation.



Home



Summary



EMEA



AMERICAS



AP

Debt

Debt moratorium

Czech Government has proposed a bill allowing debtors to request deferral of loan repayments. The bill applies to loans concluded before 26 March 2020.

The moratorium will last to 31 October 2020, and will apply: (a) in case of natural persons, to both payment of an interest and repayment of a principal; and (b) in case of legal persons, to repayment of principal only. Lenders will not charge fees for such interruptions.

The borrower must declare he was negatively affected by COVID-19 pandemic. Moreover, the borrower will not qualify for the moratorium if the borrower is more than 30 days overdue on the loan.

Moratorium will not apply to selected types of loans, in particular to revolving loans (including credit cards and overdrafts), loans connected with trading on the capital markets or financial leases without possibility for the lessee to acquire ownership of the asset.

In case of natural persons, the interest is suspended for the duration of moratorium and will accrue at the end of the loan term. In case of legal persons, the interest is not suspended.

The bill is yet to be ratified by the Parliament and entered into law.

Insolvency



Is state support for distressed business available?

Yes, including interest-free loans, guarantees for commercial loans, deferral of the income tax return and other tax relief and waivers, and salary reimbursement for employers.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Such measures are now in the legislative procedure. The Chamber of Deputies (the Lower House) approved a governmental proposal on 8 April 2020 regarding COVID-19 related changes in the insolvency proceedings. The Senate (the Upper House) will discuss and likely approve the proposal by the middle of April. If the proposal is approved by the Senate and signed by the president, it will become effective upon publication in the Collection of Laws.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



The proposal includes:

- suspension of debtors' obligation to file an insolvency petition,
- suspension of creditors' right to file an insolvency petition,
- prolongation of periods for challenging the effectiveness of legal acts,
- possibility of an extraordinary moratorium.

For further details, please refer to our client alert regarding insolvency reform in the Czech Republic ([here](#)).

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Yes, please see above.

Equity

No (semi-) equity measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate income tax

The Ministry of Finance announced that the late submission of the income tax return and late payment of the income tax will not be penalized as long as it is submitted and paid by 1 July 2020.

Remission of obligation to pay the advance payment on income tax payable in June 2020.

Social security / Employment / Wage taxes / Personal Income Tax

N/A

VAT

No penalties or interest for late payment in case of late submission of VAT filings or late payments. The company will need to explain the reasons for late filing or late payment. The delay in VAT payment or declaration must be caused directly by coronavirus and the company would be obliged to prove it. Referring to COVID 19 situation as such is not sufficient.

Late submission of the VAT invoice matching report will not be penalized.

Supply of goods – general protective equipment that will be supplied to decrease the negative impacts of coronavirus for free will not be subject to VAT.

Excise / Import duties

N/A

Other taxes

Postponing the deadline to pay the April and July 2020 advances on road tax until 15 October 2020.

Comments

Further measures may be announced for the future still.



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

There is no foreign investment review regime.

Debt

The Egyptian government has gradually announced a stimulus package which includes the following:

- EGP 100 billion (approximately USD 6.3 billion) of soft loans provided by the Central Bank of Egypt ("CBE") at a 5% interest rate for the manufacturing sector.
- Real estate tax exemptions for 3 months.
- Unfreeze bank accounts of defaulting investment against payment of 10% of their due debts.
- Civil aviation sector will be offered a bail-out package.
- Tourism sector will be offered EGP 50 billion (approximately USD 3 billion) soft loans.
- Reduction in energy prices for industrial sector.
- Allocation of EGP 20 billion (approximately USD 1.3 billion) as support package for the Egyptian Stock Exchange through direct investments by newly set up funds by CBE.
- Allocation of EGP 3 billion (approximately USD 190 million) as support package for the Egyptian Stock Exchange through direct investments by newly set up funds by the National Bank of Egypt and Banque Misr (largest State owned banks).
- Allocation of EGP 400 million (approximately USD 25 million) as support package for the Egyptian Stock Exchange through direct investments by newly set up funds by the Investor Protection Fund.
- Reduce stamp tax on equity trading and deferring entry into force of capital gain tax on traded equity.
- Reduce dividend tax to 5%.



Home



Summary



EMEA



AMERICAS



AP

Debt

The International Monetary Fund has approved a \$2.77 billion loan to Egypt under the Rapid Financing Instrument (RFI). The loan is intended to help support and stabilize the Egyptian economy, which has been affected by severe disruptions as a consequence of the COVID-19 pandemic, in particular to alleviate some of the most critical spending needs including spending on health, social protection and providing further support to the sectors which have been significantly impacted, as well as, providing support to vulnerable groups.

Equity

No (semi-) equity measures have been announced.

Taxation



Corporate income tax

The 2019 Corporate Income Tax liability for companies operating in specific sectors can be paid by installments until 30 June 2020 without late payment interest. This move is aimed to help businesses badly hit by the economic disruption caused by the novel coronavirus (COVID-19) outbreak.

On 27 April 2020, the Egyptian tax authority (ETA) issued its instructions (47) of 2020, including:

ETA approved the payment of corporate income tax of 2019 by installments for the following sectors:

- The Aviation companies;
- The tourism and antiquities sector (including its cafes, restaurants);
- The Hotels and other touristic establishments;
- The press and media sector;
- The manufacturing sector (especially export companies), excludes food, healthcare, medical supplies, sanitizers;
- The Transport companies and auto distributors;
- The Hospitals sector;



Home



Summary



EMEA



AMERICAS



AP

Taxation



- The construction sector;
- The Communications and Information Technology Sector , excludes the network carriers excludes Companies licensed to establish operating and managing a public network for telecommunications and internet services, whether fixed or mobile;
- The sports sector (Companies operating in the sports sector and sports services)
- The income tax due for the 2019 corporate tax return will be paid by installments for the companies working in the most affected sectors by the COVID-19 outbreak as follows:
 - 20% of the due income tax in April 2020;
 - 30% of the due income tax in May 2020;
 - remaining 50% will be paid before the end of June 2020 without any fines or late payment interest.

Social security / Employment / Wage taxes / Personal Income Tax

N/A

VAT

There are no changes in the process in Egypt because according to the Minister of Finance Decree No. 643 of 2019 all Corporate taxpayers will be required to submit their Income Tax Returns, Withholding Tax forms, salary tax forms and Value Added Tax Returns electronically (through the Egyptian tax Authority (ETA's) website.

Excise / Import duties

N/A

Other taxes

There are no changes in the process.

Comments

N/A



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals

Three schemes expected to mobilise more than EUR 300 billion. Two schemes enabling the French public investment bank Bpifrance to provide **State guarantees** on commercial loans and credit lines for enterprises with up to 5,000 employees. A third scheme to provide State guarantees to banks on portfolios of new loans for all types of companies (21 March)

A **fourth scheme** covering **direct grants** to small and micro-enterprises (maximum of 10 employees and a yearly turnover not exceeding EUR 1 million), as well as self-employed people affected by the coronavirus. Under the scheme companies are entitled to a maximum grant of EUR 3,500 each if their business was closed by administrative decision as a result of the coronavirus outbreak, or their monthly turnover in March 2020 dropped by 70% compared to their turnover in the same period last year. (28 March)

An amendment to this scheme has been approved increasing the maximum grant to EUR 8,000 and lowering the eligibility criterion to a drop of turnover by 50% compared to same period last year (15 April)

A **fifth scheme** consisting in a **deferral payment scheme** of certain aeronautical taxes to compensate damages suffered by airlines due to the coronavirus outbreak. The scheme will be accessible to airlines with an operating licence in France, and will offer them the possibility to defer the payment of certain taxes that would in principle be due between March and December 2020 to after 1 January 2021, and to pay the taxes over a period of up to 24 months. (31 March)

A **sixth scheme** consisting in a **guarantee scheme** to support the domestic credit insurance market in the context of the coronavirus outbreak. The scheme aims to ensure that trade credit insurance continues to be available to all companies, avoiding the need for buyers of goods or services to pay in advance, therefore reducing their immediate liquidity needs.

The total estimated budget is EUR 10 billion (12 April)

A **seventh measure** consisting of a **French "umbrella" scheme** to support small and medium-sized enterprises (SMEs) and large corporates in France affected by the coronavirus outbreak. The aid can take the form of direct grants (grants, repayable advances, zero interest loans and equity), guarantees and subsidised interest rate loans provided directly by the State or indirectly through credit institutions. After amendment the aid can now also take the form of tax or social contribution advantages.

The total estimated budget has been increased to EUR 50 billion. (20 April - 20 May)

An **eighth measure** consisting of an aid scheme providing **guarantees on operating loans for SMEs and Midcaps** with turnover not exceeding EUR 1.5 billion who generate a considerable part of their turnover through export.

Total budget estimated at EUR 150 billion (24 April)



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals

A **ninth measure** consisting of a **EUR 5 billion loan guarantee** by France to the Renault group to mitigate economic impact of coronavirus outbreak (29 April).

A **tenth measure** consisting of a **EUR 7 billion State guarantee** on loans and a shareholder loan to Air France to provide urgent liquidity to the company in the context of the coronavirus outbreak (5 May).

An **eleventh measure** consisting of a **State guarantee scheme** to support exporting undertakings, whose turnover is less than EUR 1.5 billion, and for which 20% of the added value of its exported products is realized in France. The estimated guaranteed amount to be covered is EUR 200 million (11 May).

A **twelfth measure** consisting of a loan guarantee to automotive supplier Novares. The estimated budget is EUR 71 million (26 May).

Foreign Investment Restrictions

Regarding the French Foreign Investment regulations and authorizations: further to the new governmental measures (Ordinance / Ordonnance n° 2020-306 du 25 mars 2020):

- For requests for prior approval filed before 12 March 2020 (official starting date of the health state of emergency in France), the review period for the MoE to provide its position on the approval request is suspended until 23 June 2020 and will resume as from 24 June 2020.
- For requests for prior approval filed as from 12 March 2020, the beginning of the review period for the MoE to provide its position on the approval request is postponed until 23 June 2020 and will start to run as from 24 June 2020.

In addition, the French Minister of Economy has stated that the government is ready to protect important/strategic French companies by notably recapitalising them, buying shares or even taking them over (temporarily if necessary). The government has specifically stated that the option to nationalize strategic companies is not excluded, notably in the automotive and aeronautical sectors. As part of the budget law for 2020 (**LOI n° 2020-473 du 25 avril 2020 de finances rectificative pour 2020**) enacted on 25 April 2020, the French government allocated a budget of 20 billion euros for equity investments in, or temporary nationalizations of strategic companies severely hit by the economic crisis (via the Agence des participations de l'État (APE)). The list of the beneficiaries of such government measures has not been disclosed yet.

By an order of the French Minister of Economy dated 27 April 2020, the list of strategic sectors is extended to biotechnologies. The French government's aim is to protect for example companies working on a vaccine against COVID-19.

Foreign Investment Restrictions

The French government announced on 29 April 2020 that it is considering a further reinforcement of the FIR through the lowering of the threshold for the acquisition, by non-EU investors, of the voting rights of an entity governed by French from 25% to 10% (this may be a temporary measure applicable to listed French target companies only but nothing has been officialised to date).

Debt



Setting-up of a loan guarantee scheme up to a total of EUR 300 billion for loans satisfying certain conditions: All companies are eligible, subject to (i) not being a credit institution, finance company or certain types of civil-law real estate companies, nor being subject to an insolvency proceeding on or before 31 December 2019 (it being noted that when a court-validated continuation plan has been initiated, companies are still eligible), (ii) the loan terms including a minimum grace period, the possibility to extend the amortization period and the absence of security interest and (iii) the lender proving an increase of its financial support to the borrower since 16 March 2020. Any refusal by a lender to grant a loan of less than EUR 50,000 must be notified in writing. The maximum amount of guaranteed financing is 25% of the borrower's annual turnover (subject to exceptions for young or innovative companies). The level of guarantee coverage is 90% for borrowers with less than 5,000 employees and an annual turnover under EUR 1.5 billion and 80% / 70% for borrowers with an annual turnover respectively under / in excess of EUR 5 billion). The State guarantee is granted at a preferential fee (from 0.25% to 2% per year depending on the size of the borrower and the loan maturity). In case of default on the loan, the lender is entitled to receive within 90 days of its request a provisional repayment of its estimated loss (with a later adjustment payment to, or reimbursement by, the lender, once the definitive loss amount is established).

Setting up by the French public investment bank (BPI) of a loan guarantees scheme for an aggregate EUR 700 million to secure 2-to-6-year term cash loans (or 12 month bank overdrafts) granted by private banks to SMEs and mid-sized companies facing non-structural cash flow difficulties because of the COVID-19 crisis. The level of guarantee coverage is 70% to 90% up to an amount of EUR 5 million for SMEs and EUR 30 million for mid-sized companies.

Setting up of cash loan schemes with guarantees subsidized by BPI with no asset linked or personal security required:

- *Prêt Rebond:* Available to SMEs / Amount between EUR 10,000 and 300,000 / 7-year term with a 2-year grace period;
- *Prêt Atout:* Available to VSEs, SMEs and mid-sized companies / between EUR 50,000 and 5 million for VSEs / SMEs and 15 million for mid-sized companies / 3-to-5-year term with an up to 1-year grace period.



Home



Summary



EMEA



AMERICAS



AP

Debt



Young companies (less than 12 months), real-estate / finance intermediaries / agricultural companies (and for Prêt Atout, companies being insolvent or under bankruptcy or similar proceedings) may not benefit from this scheme.

Setting-up of a support scheme for export companies comprising mainly (i) an extension of the State guarantees to cover personal guarantees and export pre-financings guarantees (ii) an extension of existing prospect insurances for one year and (ii) support for short term credit export with the granting of an additional EUR 5 billion envelope to the existing Cap Francexport public reinsurance scheme.

Setting-up of a support scheme for start-ups including in particular (i) a EUR 80 million envelope to provide semi-equity (convertibles) bridge financings alongside private investors for up to EUR 5 million per investment (ii) a dedicated EUR 2 billion envelope of State guarantees - as part of the above-described EUR 300 billion State guarantee scheme, (iii) accelerated reimbursement of research tax credits and (iv) innovation aids up to an amount of EUR 1.3 billion

General moratoria on penalty (including periodic penalty), termination and forfeiture clauses: their effect is postponed until the end of a "legally protected period" (*période juridiquement protégée*) starting from 12 March 2020 until 23 June 2020 (included).

- i. in relation to penalties and clauses which should have taken place during the legally protected period, their effective date is postponed until the end of the legally protected period, increased:
 - by a period equal to the time elapsed between 12 March 2020 and the date on which the obligation should have been performed ; or
 - if the obligation arose after 12 March 2020, by a period equal to the time elapsed between the date on which the obligation arose and the date on which it should have been performed.
- ii. in relation to penalties and clauses sanctioning obligations (other than with respect to payment obligations) which should have taken place after the legally protected period, their effective date is postponed:
 - if the obligation was to be performed before 12 March 2020, for a period equal to the time elapsed between 12 March 2020 and the end of the legally protected period; or
 - if the obligation was to be performed subsequently to 12 March 2020, for a period equal to the time elapsed between the date on which the obligation should have been performed and the end of the legally protected period.

By exception, clauses sanctioning the non-performance of a payment obligation which is to take effect at a date subsequent to the end of the legally protected period are not impacted.

Debt



Parties to the contract remain free to exclude the application of these moratoria by express clauses, or to decide to waive its application. They also keep legal remedies such as exception of execution for non-performance and default legal interest rate on delayed performance. Also these moratoria do not apply to certain matters and sectors such as criminal and electoral laws, urgency laws enacted in response to the COVID-19 crisis, to insurance companies, to certain disclosure obligations of listed companies pursuant to securities law, nor to certain financial obligations (listed in art. L 211-36 of the French Monetary and Financial code).

Setting-up a 3-to-6-month French state solidarity fund of EUR 6.75 billion in order to provide tax-free financial aid to small businesses carrying out an activity significantly impacted (closure or +50% loss of revenue) by the COVID-19 outbreak, except for companies in liquidation as at 1st March 2020. The aid amounts to up to: (i) EUR 1,500 or (ii) EUR 2,000 to EUR 5,000 for businesses in risk of bankruptcy depending on their turnover.

Insolvency



Is state support for distressed business available?

Conciliation (*Conciliation*): Yes. Companies under conciliation are eligible to the state guarantee scheme for new money loans (up to 90%).

Safeguard Proceedings (*Sauvegarde*): No. Companies under safeguard are not eligible to state guarantee scheme for new money loans (up to 90%).

Rehabilitation proceedings (*Redressement judiciaire*): No. Companies under rehabilitation are not eligible to the state guarantee scheme for new money loans (up to 90%).

Liquidation (*Liquidation judiciaire*): No. Companies under liquidation are not eligible to the state guarantee scheme for new money loans (up to 90%).

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Conciliation (*Conciliation*): Freezing of cash-insolvency assessment

Until the expiry of three months after the date the health crisis is meant to have finished, which means at present until 24 August 2020, the relevant date at which cash-insolvency (*cessation des paiements*) is to be assessed is 12 March 2020.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Extension of deadlines

Ongoing conciliation proceedings are extended until the expiry of three months after the date the health crisis is meant to have finished, which means at present until 24 August 2020 (which means in effect extended by a period of five months). The three-month waiting period for initiating new conciliation proceedings does not apply.

Facilitated formalities and adjustment of procedural rules

Filing of court documents and procedural communications may be carried out electronically or by post. Hearings may be held virtually.

Safeguard Proceedings (*Sauvegarde*): Freezing of cash-insolvency assessment

Until the expiry of three months after the date the health crisis is meant to have finished, which means at present until 24 August 2020, the relevant date at which cash-insolvency (*cessation des paiements*) is to be assessed is 12 March 2024.

Extension of deadlines

Deadlines relating to safeguard proceedings and safeguard plans are extended. Bankruptcy officers may request the extension of all deadlines until the expiry of three months after the date the health crisis is meant to have finished, which means at present until 24 August 2020.

Facilitated formalities and adjustment of procedural rules

Filing of court documents and procedural communications may be carried out electronically or by post. Hearings may be held virtually.

Rehabilitation proceedings (*Redressement judiciaire*): Freezing of cash-insolvency assessment

Until the expiry of three months after the date the health crisis is meant to have finished, which means at present until 24 August 2020, the relevant date at which cash-insolvency (*cessation des paiements*) is to be assessed is 12 March 2024.

Extension of deadlines

Deadlines relating to rehabilitation proceedings and rehabilitation plans are extended. Bankruptcy officers may request the extension of all deadlines until the expiry of three months after the date the health crisis is meant to have finished, which means at present until 24 August 2020.

Insolvency



Facilitated formalities and adjustment of procedural rules

Filing of court documents and procedural communications may be carried out electronically or by post. Hearings may be held virtually.

Liquidation (*Liquidation judiciaire*): Freezing of cash-insolvency assessment

Until the expiry of three months after the date the health crisis is meant to have finished, which means at present until 24 August 2020, the relevant date at which cash-insolvency (*cessation des paiements*) is to be assessed is 12 March 2024.

Extension of deadlines

Bankruptcy officers may request the extension of all deadlines until the expiry of three months after the date the health crisis is meant to have finished, which means at present until 24 August 2020.

Facilitated formalities and adjustment of procedural rules

Filing of court documents and procedural communications may be carried out electronically or by post. Hearings may be held virtually.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Conciliation (*Conciliation*): Yes. Directive (EU) 2019/1023 of 20 June 2019 ("**Insolvency Directive**") is meant to be transposed into French law before 17 July 2021. The "PACTE" law dated 22 May 2019 authorized the government to transpose the Insolvency Directive by ordinance.

Safeguard Proceedings (*Sauvegarde*): Yes. Directive (EU) 2019/1023 of 20 June 2019 is meant to be transposed into French law before 17 July 2021. The "PACTE" law dated 22 May 2019 authorized the government to transpose the Insolvency Directive by ordinance.

Rehabilitation proceedings (*Redressement judiciaire*): Yes. Directive (EU) 2019/1023 of 20 June 2019 is meant to be transposed into French law before 17 July 2021. The "PACTE" law dated 22 May 2019 authorized the government to transpose the Insolvency Directive by ordinance.

Liquidation (*Liquidation judiciaire*): Yes. Directive (EU) 2019/1023 of 20 June 2019 is meant to be transposed into French law before 17 July 2021. The "PACTE" law dated 22 May 2019 authorized the government to transpose the Insolvency Directive by ordinance.



Home



Summary



EMEA



AMERICAS



AP

Equity

EUR 20 billion has been assigned to the special purpose budget managed by the French State Participations Agency (Agence des Participations de l'Etat) for recapitalization purposes by way of equity (semi-equity financings are still to be confirmed). This is to support companies deemed strategic enterprises and considered vulnerable because of the COVID-19 crisis, in particular those in the aeronautics and automotive sector.

The State Participations Agency is tasked with ensuring that the companies benefiting from these recapitalization measures fully integrate social, societal and environmental responsibility goals into their strategy. This recapitalization scheme does not, however, create an effectively binding additional "environmental counterparty" for such companies.

Taxation



Corporate income tax

The French minister of the budget allows companies experiencing difficulties to defer payment of **the balance of the CIT 2019** until 30 June 2020, for the fiscal year ending from 31 December 2019 to 29 February 2020. This deadline is extended to 31 July 2020 for companies whose fiscal year ends on 31 March 2020.

The payment for the CIT instalment due on 15 June is deferred until 30 June.

For the companies that have previously requested the deferral of payment of the **CIT instalment** for March for three months, the June CIT instalment is suspended until September.

For large companies (i.e. with more than 5,000 employees or an annual turnover exceeding EUR 1.5 billion) and groups, these extensions of payment limits are conditioned upon the absence of dividend distribution and share buybacks until the end of 2020, and upon the absence of subsidiaries in a non cooperative state territories (ETNC)

Social security / Employment / Wage taxes / Personal Income Tax

The deferral of payment of **social contributions** for June, (as for the previous months) can be requested, partially or totally, to the URSSAF (the French Social Security Administration).

As for the previous months, companies may also request the deferral of the payment of the **payroll tax** for June, by filling out a form on the website impôt.gouv.fr.

For large companies (i.e. with more than 5,000 employees or an annual turnover exceeding EUR 1.5 billion) and groups, these extensions of payment limits are conditioned upon the absence of dividend distribution and share buybacks until the end of 2020, and upon the absence of subsidiaries in a non cooperative state territories (ETNC).

Taxation



VAT

No deferral payment.

VAT return simplifications for companies unable to collect all the documents needed to draw it up.

- Simple estimate of the amount of VAT due for a month and pay a deposit corresponding to this amount the following month. A margin of error of 20 % is allowed ; Or
- Companies experiencing a turnover decline due to the Covid crisis-19: flat rate at 80% of the amount declared the previous month or 50% if the activity has been discontinued since mid-March (total closure) or is in a very sharp decline. VAT should be then regularised on the basis of the actual elements from the activity over all previous months.

Invoicing process - Invoices issued in paper form and then scanned, can be sent by e-mail without the need to send the corresponding paper invoice by the post. Customer is allowed to keep the "paper" invoice received by e-mail in PDF format. At the end of this period, it will be up to the customer to keep it on paper by printing it or to scan it.

Reduced rates - Certain Masks, protective clothing and hygiene products adapted to combat the spread of coronavirus benefit from the reduced VAT rate of 5.5 % until 31 December 2021.

Input VAT - Companies donating certain health equipment (masks, hydro-alcoholic gels, protective clothing, respirators) to eligible organisations are exempt from regularising the VAT paid on the purchase of such equipment.

Excise / Import duties

Possibility of importing masks without CE marking on condition that the importer proves that they comply with European standards and sets up a procedure for early communication of the documents necessary for customs clearance.

- General Control for Export Outside of the EU: cf. EU temporary export licensing requirement on certain personal protective equipment.
- Respiratory Masks: Certain types of respiratory protection masks held in France on March 24, 2020 or produced on French territory from that date are requisitioned until May 31, 2020 (subject to possible extension). This requisition may also apply to imported devices (subject to some conditions). They cannot therefore be sold or exported.
- Drugs: In addition, certain drugs (curare and hypnotics) are subject to similar measures (articles 12-4-1 and 12-4-2 of the decree of March 23, 2020).



Home



Summary



EMEA



AMERICAS



AP

Taxation



Customs:

Suspension and extension of time limits and measures, which have expired or will expire between 12 March 2020 and 24 June 2020 (except extension of the state of public health emergency) i.e. recovery, contestation, limitation period...

Deferral payment of certain taxes on request (Axle tax, Annual Francization and Navigation Fee, Dock dues).

Temporary suspension of customs duties and VAT on imports of masks, protective equipment, screening kits, or medical devices for state bodies (public hospitals, local authorities, etc.) and approved philanthropic charities. Applies for a renewable period of six months from 30 January 2020 until 31 July 2020.

Storage - Goods already cleared through customs can stay in Temporary Storage Facilities (TSF) for up to 120 days. Authorised Economic Operators may store goods under suspension of duties and taxes in places not previously approved by customs.

Other taxes

As for the CIT, payments of the balance of **CVAE** and of the CVAE instalment for June are deferred until 30 June 2020.

Companies that are members of the monthly payment system for the payment of the **business property contribution (CFE) or property tax (TF)** can suspend payments on impots.gouv.fr without penalty or by contacting the Service Collection Centre. The remaining amount will be debited at the time of payment of the balance.

Tourist tax: For City Tax, no specific measure has been taken by the Government. Some municipalities have taken relief measures: deferral of reporting and payment, or even exemption (examples : Lille, Lyon, Marseille, St Malo, Quimper, Grenoble, Nancy, Cannes, Le Mans, Aix-en-Provence...).

Comments

- i. **For companies**, the budget minister's press release of 17 April postponed the **filing of tax returns** and other similar declarations initially due in **May to 30 June**. As such, the following are concerned: declarations of results subject to corporate income tax and category income subject to income tax, including the declaration of results of private real-estate companies not subject to corporate tax, as well as the CVAE declaration and the CVAE liquidation and regularization declaration, except for credit companies for which the deadline remains set for 5 May. This additional deadline also applies to all tax credit forms.

Taxation



The extension of the deadline until 30 June 2020 also concerns **DAS 2** (due in principle on 15 May). The deadline for filing **DSN** returns is also extended to August 2020 at the latest.

- ii. The deadline for the filing of **personal income tax returns** are **4 June 2020** for the first zone (department N°. 01 to 19 and non-residents), **8 June 2020** for the second zone (department N°. 20 to 54) and **11 June 2020** for the third zone (department N°. 55 to 974/976).
- iii. The standard limitation period of one month for **the registration of legal documents** with the French tax authorities and payment of the transfer tax, where applicable, is suspended for a period equal to the period between 12 March 2020 and 23 June 2020.
- iv. Tax authorities should suspend their **tax audits** "on impacted industries". The limitation periods expiring on 31 December 2020 are suspended for a period equal to the period between 12 March 2020 and the expiry of a period of two months from the end of the protective period, current scheduled for 23 June 2020. Thus a suspension period of 5.5 months. As a result, tax audit limitation period would be extended from 31 December 2020 to mid-June 2021. All time limits for the conduct of control and investigation procedures in tax matters are so suspended. Only the protective period applies to tax rulings (i.e. a suspension period of 3.5 months).



To read more about this topic, please see this alert: [France: COVID-19 tax measures](#)



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals

Two subsidised loan schemes are to be implemented by the German bank Kreditanstalt für Wiederaufbau (KfW) covering up to: 90% of the risk, available to all companies (up to 5 year maturity and up to EUR 1 billion per company) 80% of the risk, but no more than 50% of a company's total debt, as part of a consortium of private banks.

Loans will only be provided during 2020 with up to a six year maturity (22 March).

A **third loan scheme** open to all companies enabling the granting of guarantees on loans at favourable terms to help businesses cover immediate working capital and investment needs (24 March). Some modalities have been amended on 11 April 2020.

A **fourth direct grant aid scheme** (direct grants, repayable advance or tax and payment advantages) for companies of up to EUR800,000 per company (with lower thresholds for companies involved in fishing and agriculture) (24 March). Some modalities have been amended on 11 April 2020.

A **fifth subsidised loan scheme** in line with the first loan scheme referred to above, but now implemented by the German federal and regional authorities, and promotional banks, instead of KfW. (2 April)

A **sixth guarantee scheme** to support the credit insurance market in the context of the coronavirus outbreak. The scheme aims to ensure that trade credit insurance continues to be available to all companies, avoiding the need for buyers of goods or services to pay in advance, therefore reducing their immediate liquidity needs.

The total estimated budget is not provided. (13 April)

A **seventh measure** consisting of a **State-guaranteed EUR 550 million** public loan in favour of German charter **airline Condor**. (26 April)

An **eighth measure** consisting of the **German "umbrella" scheme to support research, development, testing and production of coronavirus relevant products**. The public support will take the form of direct grants, repayable advances and tax advantages. Guarantees to cover losses may also be granted, either in addition to a direct grant, tax advantage or repayable advance, or as an independent aid measure (29 April).



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

In light of the COVID-19 crisis, the German government will likely restrict the acquisition of medical companies by non-EU or EFTA entities. Different to before the crisis even the sale of a small to medium sized medical company could presumably be considered to endanger the public order and security of Germany. While many have expressed concerns that foreign investors may be acquiring German companies and have called for stronger screening of foreign investments, the German government has not indicated any changes. Initiated already before the COVID-19 crisis, the government is currently reforming the German foreign investment review laws. In implementing the EU Screening Regulation (Regulation (EU) 2019/452), foreign investments would be subject to review and potential restrictions not only if there is an "actual risk" but already if there is a "probable impairment" of the public order and security of Germany or another EU member state. Transactions regarding a share of at least 10% of particularly sensitive companies, such as operators of critical infrastructure, will be provisionally ineffective until the review is concluded. The catalogue of particularly sensitive companies, to which the 10%-threshold applies, will be extended by further industries such as artificial intelligence, robotics, semiconductors, biotechnology, quantum technology, and will also encompass companies which develop or manufacture vaccines, medicines, personal protective equipment or medical items for the treatment of highly infectious diseases.



To read more about this topic, please see this alert:

[EU and Germany: COVID-19 trade, foreign investment and the health sector](#)

Debt



KfW Programs

The set of measures presented by the German Government include a guarantee for the banks extending loans to corporates, covering 80% or 90%. That way, companies facing an illiquidity due to COVID-19 are being provided with the liquidity needed. These programs are being provided through KfW, the German state owned support bank. The respective loans are being applied for through the relevant "house banks". Loans must not exceed EUR 1 billion in total for a group and are limited at 25% of total revenues in 2019, double the amount of salaries, liquidity needs for the next 12 or 18 months (depending on the size of the company) or 50% of the total debt in case of loans in excess of EUR 25 million.



Home



Summary



EMEA



AMERICAS



AP

Debt



KfW "quick loan" for medium-sized enterprise (with more than ten employees and at least active since January 2019)

For investments and working capital needs, mid-sized companies can apply for the so-called KfW "quick loan". The loan is 100% guaranteed by the Federal Government.

- 100 % risk assumption of KfW
- No risk assessment of the loan extending bank
- Maximum loan amount: up to 3 months turnover in the year 2019
- Enterprises with up to 50 employees can apply for a maximum loan of EUR 500,000
- Enterprises with more than 50 employees can apply for a maximum loan of EUR 800,000
- Term 10 years
- Showed profits in 2019 or on average over the last three years

The new KfW "quick loan" program is not limited to SMEs as defined by the EU Commission. However, according to the information provided by KfW, the KfW "quick loan" is available only to

- enterprises engaged in trade and industry seated in Germany that are majority-owned by private individuals
- sole proprietors / freelancers in Germany

Insolvency



Is state support for distressed business available?

Regular insolvency proceedings and Insolvency plan/protective shield

Companies affected by the COVID-19 pandemic can apply for a loan backed by the German government (80/90%) of up to one billion Euro, but capped at 25% of annual turnover, double the amount of salaries, liquidity needs for next 18 months (small companies) and 12 months (large companies) or 50% of the overall debt (if loan in excess of 25 million). However, only companies that did not experience financial difficulties prior to 31 December 2019 (i.e. companies that did not qualify as "undertakings in difficulty" pursuant to Article 2 No. 18. of the EU General Block Exemption Regulation (651/2014)) and are expected to be profitable in the long term are eligible for the loan.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Regular insolvency proceedings and Insolvency plan/protective shield

In response to the COVID-19 pandemic, the German legislator enacted a new law to suspend the mandatory obligations to file for insolvency proceedings until 30 September 2020 and to mitigate liability risks for managing directors and lenders. The suspension does not apply if the insolvency did not occur due to the consequences of the COVID-19 pandemic or if there is no prospect of resolving the insolvency. However, in case the debtor was not (yet) illiquid (i. e. cash-flow insolvent) by 31 December 2019, it is legally presumed that the insolvency was caused by the consequences of the COVID-19 pandemic and that it can be resolved. The suspension can be extended by ordinance until 31 March 2021.

Insolvency proceedings are not to be opened upon a creditor petition filed between 28 March and 28 June 2020 if the debtor was not yet insolvent on 1 March 2020. Managing directors are exempted from liability for violations of statutory payment prohibitions when making payments in the ordinary course of business, particularly if those payments serve to maintain or resume business operations or to implement a restructuring concept. Such payments shall be deemed "compatible with the diligence of a prudent and conscientious manager".

The financing of businesses is facilitated by measures protecting lenders from liability risks as well as claw-back and avoidance risks for any new loans granted during the period when the insolvency filing obligation is suspended. A general exemption from claw-back and avoidance shall apply to cover transactions where the creditor receives performance from a debtor in accordance with agreed contract terms. Certain changes to the agreed contract terms shall also be exempted, such as certain changes to the agreed consideration or collateral, third party payments, as well as shortening or extension of payment terms. The protection of loans to companies is comprehensive, regardless of how much the borrower is affected by the COVID-19 pandemic.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Regular insolvency proceedings and Insolvency plan/protective shield

With the implementation of the EU Directive on Restructuring and Insolvency (2019/1023) a flexible preventive restructuring framework is to be introduced. This new mechanism will be available outside of formal insolvency proceedings to companies facing a "likelihood of insolvency".

The framework's main features include the reorganization of the debtor's capital structure via a restructuring plan (with the possibility of cramming down dissenting creditors), a moratorium or stay of individual enforcement actions against the creditor and special protection for new and interim financing against claw-back and avoidance in case of subsequent insolvency proceedings.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Although the envisaged introduction of a preventive restructuring framework is not specific to the COVID-19 pandemic, there is some debate as to whether the legislative process should be accelerated up in view of the challenges posed by the pandemic.

Equity

Germany has created the Economic Stabilization Fund (*Wirtschaftsstabilisierungsfonds*; "ESF"), which adopts the blueprint from a similar fund that was used to save banks from failing in the wake of the global financial crisis. The fund is intended to stabilize the economy by overcoming liquidity shortages and strengthening the capital base of companies whose endangered existence would have a significant effect on the economy, technological sovereignty, security of supply, critical infrastructures and the labor market.

The ESF can issue guarantees of up to EUR 400 billion for bank loans and grant semi-equity and equity funding of up to EUR 100 billion. The period for grants is limited to 31 December 2020.

Only companies from the "real" economy are eligible, which does not include the financial sector or credit institutions. In addition, in the fiscal years ended prior to 1 January 2020, companies must have met two out of the three following criteria:

- **Total Assets** of more than EUR 43 million;
- **Total Revenues** of more than EUR 50 million;
- More than 249 **employees on average during the year**.

Assistance is also available to:

- i. systemically relevant smaller companies that are **part of Germany's critical infrastructure**; and
- ii. **start-ups** which have had at least one financing round since 1 January 2017, with a **post-money valuation of at least EUR 50 million**.

Companies must have no other funding alternative and the stabilization measure must be likely to give companies the ability to be self-sufficient and to continue as a going concern after the end of the COVID-19 pandemic.

As of 31 December 2019, companies applying for assistance must not have been in financial trouble. They must demonstrate a solid and prudent business policy and must contribute to the stabilization of chains of production and secure employment. Conditions may be imposed to safeguard these criteria before funding is granted.



Home



Summary



EMEA



AMERICAS



AP

Equity

Besides limitations on the use of funds, there will be rules on incurring additional debt, limitations on (variable) compensation of executive board members and dividend distributions. In addition, measures to avoid distortion of competition and sector specific restructuring conditions can be imposed. Compliance will be secured by a legally binding commitment, which will be published, signed by the executive board with the consent of the supervisory board.

Taxation

Corporate income tax

See VAT.

Social security / Employment / Wage taxes / Personal Income Tax

N/A

VAT

With regard to taxes that are administered by the Federal Central Tax reliefs envisaged by the German government re VAT (but also Income Tax, Corporate Income Tax):

For taxpayers directly and not only insignificantly affected the following tax reliefs are provided:

1. Until 31 December: waiver of enforcement measures and late payment surcharges in respect of all taxes in arrears or due up to that date
2. Deferral of tax debts and waiver of deferral interest as well as reduction of advance tax payments (for Income Tax/CIT)
 - a. Until 31 December: evidence of being affected but no proof regarding concrete damages required
 - b. After 31 December: evidence of being affected and proof regarding concrete damages required

It is not clear at present what form the required evidence must take and whether there will be standardized regulations for certain companies and sectors.

The tax authorities have been instructed to make appropriate concessions to taxpayers. It is therefore imaginable that the allocation of VAT ID numbers, the MOSS procedure and the input tax refund procedure could be simplified (but it has not officially addressed yet at this point in time.

The tax reliefs must generally be applied for. The tax authorities will not act automatically.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Excise / Import duties

N/A

Other taxes

Trade Tax: The Tax Office may adjust the advance payments of Trade Tax for the current assessment period, especially in cases in which the tax office adjusts income tax and corporate tax prepayments. Taxpayers who are demonstrably directly and not insignificantly affected may apply for a reduction of the trade tax base for the purpose of the advance payments until 31 December 2020, stating their circumstances. These applications are not to be rejected because the taxpayers are not able to prove the value of the damages incurred in detail.

The Bavarian State Office for Taxes has already provided an application form "Tax relief due to the effects of the coronavirus" for download on its homepage. This form can be used to apply for interest-free deferral of taxes and reduction of tax prepayments or the tax base for the purpose of trade tax prepayments.

Comments

Any applications for deferral or remission must be addressed to the municipalities, also with regard to a possible connection with the effects of COVID-19. The tax office is only competent if the assessment and collection of trade tax has not been transferred to the municipalities.



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals



A **first measure** consisting of a **direct grant scheme**, accessible to medium and large enterprises which are particularly hit by the economic consequences of the coronavirus outbreak and which are active in certain sectors defined by Hungary, has been approved. The support per company will not exceed EUR 800 000 and the total estimated budget of the scheme is EUR 140 million. (8 April)

A **second measure** with a total estimated budget of EUR1 billion. This scheme aims to support companies affected by the coronavirus outbreak through **direct grants, loans and equity measures**, using EU structural funds for that purpose. The scheme will be open to all companies, i.e. micro, small and medium-sized enterprises (SMEs) and large companies, which have access to European structural funds and are facing difficulties as a result of the economic impact of the coronavirus outbreak. (17 April)

A **third scheme** providing aid in the form of **wage subsidies** to finance the wage costs of all undertakings that, due to the coronavirus outbreak, would otherwise lay off researchers and developers. The wage subsidies are provided through direct grants.

The total budget is estimated at EUR 88 million. (17 April)

A **fourth** EUR 1.55 billion **guarantee scheme** (approximately HUF 550 billion) to support companies affected by the coronavirus outbreak. The scheme consists of two complementary measures that will be managed and implemented by two separate entities. (28 April). Scheme has been amended on 29 May with regard to calculation of max. loan amount for start-ups, and guarantee premium in case guarantee covers less than 90% of underlying loan.

A **fifth approval** concerning **three support measures**, with a total budget of around EUR 900 million, to support companies affected by the coronavirus outbreak. Under the three schemes, the public support will take the form of **(i) direct grants, (ii) guarantees on loans, and (iii) subsidised interest rates for loans**, respectively. The measures will be open to small and medium-sized enterprises (SMEs) and large companies. (29 April)

A **sixth guarantee** scheme with at least EUR 283 million guaranteed nominal amount to support companies affected by the coronavirus outbreak. The scheme will be open to SMEs active in all sectors, but is aimed at the **wider agri-food value chain** (7 May).

A **seventh measure** consisting of aid in the form of **direct grants, interest rate subsidies and guarantee fee subsidies** for SMEs and large enterprises active in **primary agricultural production; food industry (including agricultural processing and marketing); fisheries and aquaculture; forestry; game management**. The aid will amount to max. EUR 800,000 (EUR 120,000 for aquaculture and fishery or EUR 100,000 for agriculture). The total budget is estimated at EUR 100 million (20 May)



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals



An **eight measure** consisting of aid in the form of **equity injections and loans connected to equity** (loan or convertible loans) up to a maximum of EUR 800,000 for SMEs and large enterprises. The estimated budget is EUR 156.3 million (20 May).

A **ninth measure** consisting of **direct grants to SMEs** up to a maximum of EUR 800,000 covering the financial costs (the interests and handling fees) related to four loan programs. The total budget is estimated at EUR 60 million (20 May).

Foreign Investment Restrictions



The Hungarian Government with its decree no. 226/2020. (V.25.) ("Decree") introduced a new foreign investment screening regime as of 26 May 2020 (beside the already existing FIR) with the effect until 31 December 2020.

The Decree established a notification obligation in case of transactions resulting in the acquisition of certain interest or other rights in so-called strategic companies. The definition of a strategic company extends to companies carrying out a wide range of business activities (listed in Annex 1 of the Decree) that are of strategic importance, such as in the sectors of energy; transport, communication, banking, finance, insurance, commercial, health care, defense, constructional engineering, tourism, etc.

Transactions triggering the notification obligation:

1. agreement for the transfer (based on any title for the transfer of property, including contribution in kind) of the ownership interest in the company in whole or in part for free or for consideration;
2. the adoption of a resolution on the increase of the capital of the company;
3. the adoption of a resolution on the transformation, merger or demerger of the company; or
4. the establishment of a beneficial use on the share or the business quota of the company by a unilateral declaration.



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions



If as a result of any of the listed transactions:

- A. Foreign investor (i.e., a natural or legal person outside the European Union (EU), the European Economic Area (EEA), or the Swiss Confederation, furthermore a legal person registered in the EU, the EEA, or the Swiss Confederation, if the person holding the majority interest in the legal person pursuant to the Civil Code is the citizen of a state outside the EU, the EEA or the Swiss Confederation or is a legal person or organization registered in such state; "**Foreign Investor**"):1. directly or indirectly acquires an interest of at least 10% in a strategic company and the total amount of the investment equals or exceeds HUF 350 million; or directly or indirectly acquires an interest of 15%, 20% or 50% in a Strategic Company or as a result of the transaction the combined interest of the Foreign Investors would exceed 25%;
- B. The right of the use or operation of the infrastructure, equipment, or assets that are essential for carrying out the activities of the strategic company are assigned or encumbered (such as by the establishment of a lien thereon), if the above is acquired by the Foreign Investor or a legal person or organization in which the Foreign Investor directly or indirectly holds a controlling interest;
- C. The Foreign Investor or a legal person or other organization registered in a member state of the EU other than Hungary, in the member state of the EEA or in the Swiss Confederation, directly or indirectly acquires a majority interest pursuant to the Civil Code in a strategic company. It is important to note that this section of the Decree does not apply only on Foreign Investors, but to entities from the EU that are outside Hungary, from the EEA or from Switzerland, regardless of whether they would qualify as Foreign Investors based on the nationality of the ultimate owners.

As general rule the notification shall be submitted by the Foreign Investor, to the Minister responsible for Innovation and Technology, within 10 days from the coming into effect of the respective transaction. It is to be noted that legal representation in the notification proceeding is required.

Failure to comply with the provisions of the Decree may result in an administrative fine for the

- 1. on the natural person Foreign Investor, exceeding HUF 100,000, or
- 2. on a legal person Foreign Investor or other organization Foreign Investor exceeding 1% of the net income in the previous financial year of the Strategic Company affected by the transaction, up to but not exceeding double the value of the transaction, taking into consideration all the circumstances of the case.



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions



It is also important to note that requests for registration in the membership lists or the shareholders' lists of the strategic companies may only be submitted in the possession of an acknowledgement. In the absence of an acknowledgement, or in case of a prohibitive decision, the acquiring party cannot be registered in the membership list or in the shareholders' list, and therefore cannot exercise any rights towards the strategic company pursuant to the interest acquired in the course of the transaction serving as basis for the notification. However the Decree does not contain provisions on the interpretation of the enforcement ban in case of the acquisition of indirect interest.

Debt

The Hungarian government ordered a debt moratorium on 18 March 2020 by a framework decree (Gov. Decree no. 47/2020 (III. 18.); the "**Framework Regulation**"). The detailed regulation (Gov. Decree no. 62/2020 (III. 24.); the "**Detailed Regulation**") was then issued on 24 March 2020, implementing and further specifying the provisions of the Framework Regulation.

The debt moratorium applies with respect to all credit facilities, loans and financial leases granted by financial institutions. During the moratorium neither principal amounts, nor interests or fees become due and payable if these are based on financial services provided before the start of the moratorium, i.e., 18 March EOD. Based on a non-binding governmental communication, we understand that the moratorium does not apply to liabilities that became due and payable by reason of a termination of contract falling before the start of the moratorium. We understand that during the moratorium creditors are not barred from terminating contracts based on legal grounds different from non-payment.

Pursuant to paragraph 2 of the Detailed Regulation, interests accruing during the term of the moratorium cannot be capitalised to the principal loan amount (neither during nor after the term of the moratorium). Following the moratorium, the interests accrued during the debt moratorium must be paid up before the extended maturity date in even annual instalments together with the due loan instalments. The moratorium is set to expire on 31 December 2020, which date may be prolonged by the government. The term of loans and other facilities may be further prolonged in addition to the prolongation of cca. 9 months (i.e., the term of moratorium) in order to cap the payment instalments after the moratorium, i.e., the repayment schedule could be shifted by a longer period than the term of the moratorium.

The government announced tax reliefs and its intention to provide further financial support for the sectors significantly affected by the economic effects of the COVID-19 pandemic. Businesses of certain sectors and of certain tax regimes (Fixed-Rate Tax of Low Tax-Bracket Enterprises and Small Business Tax) were offered a total or partial exemption of tax and social contributions of the employer. Tax reliefs are significant in the travel industry, the restaurant and entertainment sector, the casinos, the film and the sport industry.

Creditors and debtors are free to file for insolvency proceedings.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is state support for distressed business available?

A debt moratorium was introduced by the Hungarian government on 18 March 2020. However, the debt moratorium does not, in principle, affect companies already under liquidation or bankruptcy proceedings. Tax relief, subsidized credit programs and regional financial state support are being launched to counter the negative economic effects of COVID-19.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

N/A

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

N/A

Equity

No (semi-) equity measures have been announced.

Taxation

Corporate income tax

N/A

Social security / Employment / Wage taxes / Personal Income Tax

N/A

VAT

Currently the Hungarian Government has not announced yet any tax measures in connection with VAT.

Taxation

Excise / Import duties

N/A

Other Taxes

The Government will adopt detailed rules in further decrees, which are expected to be adopted in the coming days.

The following rules are effective from 19 March 2020 in the sectors listed below, for March, April, May and June 2020:

- Employers shall be exempt from payment of social contribution tax and vocational training contributions in respect of employed persons; and
- Only health insurance contributions in kind shall be paid, and no other dues or charges of the employees' wages are due. Health insurance contributions in kind may not exceed the monthly amount of the health care contribution (HUF 7,710).

Corporate income tax

N/A

Social security / Employment / Wage taxes / Personal Income Tax

N/A

VAT

Currently the Hungarian Government has not announced yet any tax measures in connection with VAT.

Excise / Import duties

N/A

Taxation

Other Taxes

The Government will adopt detailed rules in further decrees, which are expected to be adopted in the coming days.

The following rules are effective from 19 March 2020 in the sectors listed below, for March, April, May and June 2020:

- Employers shall be exempt from payment of social contribution tax and vocational training contributions in respect of employed persons; and
- Only health insurance contributions in kind shall be paid, and no other dues or charges of the employees' wages are due. Health insurance contributions in kind may not exceed the monthly amount of the health care contribution (HUF 7,710).

These facilitations apply in the following sectors:

- tourism
- catering
- entertainment
- gambling
- film industry
- performer
- event organizer, and
- sports service providers

Comments

For the period from 1 March 2020 to 30 June 2020, those liable to pay the tourism development contribution shall be exempt from the payment of the mentioned contribution, and no tourism development contribution shall be declared or established during the period concerned.

the mentioned contribution, and no tourism development contribution shall be declared or established during the period concerned.



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals



A **first** EUR 50 million aid scheme to support the **production and supply of medical devices** (such as ventilators) and PPE masks. Financial support is available to companies of all sizes which either set up new facilities, or expand the production of their existing facilities or convert their production line (22 March).

A **second State guarantee scheme** to support a **debt moratorium for SMEs**, which includes the postponement of repayments of overdraft facilities, bank advances, bullet loans, mortgages and leasing operations. The scheme runs until 30 September with State risk limited to 33%. Eligible beneficiaries must not have non-performing exposures pre 17 March 2020 (25 March).

A **third scheme** providing aid in the form of **guarantees on loans** and grants covering the value of the premiums on those guarantees to SMEs, small mid caps and self-employed. The total estimated budget is EUR 1.7 billion (13 April).

A **fourth scheme** enabling **public guarantees** on new loans and on refinancing of existing loans for all businesses, including large companies. The aid will be granted by State-owned SACE, through financial institutions, to companies affected by the coronavirus outbreak. The total estimated budget is up to EUR 200 billion (13 April).

A **fifth aid scheme** in the form of **State guarantees and direct grants or 100% guarantees** to support SMEs active in the agricultural, forestry, fishery and aquaculture sectors. Total budget estimated at EUR 100 million (21 April)

A **sixth aid scheme** in the form of **subsidised interest rate loans and direct grants** to support companies of all sizes active in the agricultural, forestry and fishery sectors in the Friuli Venezia Giulia region. Total budget estimated at EUR 50 million (21 April)

A **seventh measure** with a total estimated budget of EUR 30 million, consisting of aid in the form of **interest free loans** to SMEs active in the agricultural and fishery sector (4 May).

An **eight measure** consisting of **direct grants** to undertakings of all sizes active in the **primary agricultural production and in the fishery and aquaculture sectors which have an operating unit on the Campania region** territory. The total budget is estimated at EUR 70 million.

A **ninth measure** consisting of a EUR 9 billion "**umbrella**" **scheme** to support companies affected by the coronavirus outbreak. Under the scheme, the Italian Regions and Autonomous Provinces, other territorial bodies as well as Chambers of commerce, will be able to provide support to companies of all sizes through (i) direct grants, guarantees on loans and subsidised interest rates for loans; (ii) aid for coronavirus-related research and development (R&D), for the construction and upscaling of facilities to develop and test coronavirus-relevant products, and for the production of coronavirus-related products; and (iii) wage subsidies for employees to avoid lay-offs during the coronavirus outbreak (21 May).

EU State Aid Approvals

A **tenth measure** consisting of aid in the form of **direct grants** to agricultural companies covering the interests due on the advanced payment of direct support amounts payable to farmers in the framework of the Common Agricultural Policy (CAP) support measures. The estimated budget is EUR 12 million (29 May).

Foreign Investment Restrictions

The Italian Government has extended the scope of the rules on foreign direct investment known as "Special Powers". Based on the provisions of the Law Decree 6 April No. 23 (effective as of 9 April 2020):

1. The Special Powers now apply, with immediate effect, not only to the previously covered sectors – such as defense, homeland security, telecoms, transportation and energy – but also to new industry sectors such as healthcare, food security, water, banking & finance, insurance, dual-use, critical technologies, etc. Change of control in such sectors will require the prior approval of the Italian Government.

The "new" industry-sectors are those identified in EU Regulation 452/2019 ("EU-Regulation Sectors"), as implemented in Italy through Law No. 133 of 18 November 2019, namely:

- i. critical infrastructure (such as water, health, media, data processing or storage, electoral or financial infrastructure, and sensitive facilities);
- ii. critical technologies and dual use items (including AI, robotics, semiconductors, cybersecurity, energy storage, quantum computing and nuclear technologies as well as nanotechnologies and biotechnologies);
- iii. supply of critical input, including raw materials, as well as food security;
- iii. access to sensitive information, including personal data, or the ability to control such information;
- iv. freedom and pluralism in the media; and
- v. banking, finance and insurance sectors.

Foreign Investment Restrictions

Any individual or entity wishing to invest in the above sectors is subject to the Special Powers rules, even though the Government has not yet issued the implementing rules on the application of such enlarged Special Powers.

2. If the parties to a transaction involving a "strategic" company do not comply with the obligation to notify such transaction to the Government, not only sanctions will apply for failure to notify, but the Government will also be entitled to exercise the Special Powers automatically.
3. Up to 31 December 2020, the Special Powers will apply also (i) to transactions within the European Union when, as a result of the transaction, the purchaser would acquire control of the Italian "strategic" company; and (ii) to extra-EU transaction when, as a result of the transaction, the purchaser would hold a participation in excess of 10% of the corporate capital of the "strategic" company, if the value of the transaction is in excess of EUR 1 million, and when the purchaser would hold participations in excess of 15%, 20%, 25% and 50%.

Debt

The Italian government issued a Decree to:

- a. strengthen the Central Guarantee Fund for SMEs (the Fund) for a period of nine months by, among other things, permitting the granting of guarantees on a gratuitous basis, increasing the maximum guaranteed amount for each SME from EUR 2.5 million to EUR 5 million, and permitting the guarantee to be available for refinancing;
- b. introduce a State guarantee in favour of *Cassa Depositi e Prestiti S.p.A.* directly guaranteeing 80% of the financing made available by CdP to enterprises other than SMEs and/or counter-guaranteeing 80% of any guarantee issued by CdP in the interest of enterprises other than SMEs; and
- c. contemplate further decrees adopting additional measures.

Exclusions

Guarantee for refinancing: The amount of the new financing must be at least equal to 10% of the outstanding amount of the old financing.

Guarantees from the Fund covers: (i) in case of a direct guarantee, 80% of the financing; or (ii) in case of a counter-guarantee of Confidi's guarantees, 90% of the relevant Confidi's guarantee.

Insolvency



Is state support for distressed business available?

As a consequence of the COVID-19 emergency, the Italian Government has introduced, among others, the following measures to support businesses:

- Measures to help micro-enterprises and SMEs to repay their financial indebtedness vis-à-vis (i) banks, (ii) financial intermediaries; and (iii) other entities authorized to grant loans in Italy, due to the epidemiological emergency created by COVID-19.
- Possibility for lenders to seek access to the state guarantee (*Fondo centrale di garanzia PMI* (Central Guarantee Fund for SMEs),—"Fund") for losses related to the above.
- Additional measures in order to support companies affected by the COVID-19 pandemic and particularly to ensure the necessary liquidity for companies with registered office in Italy affected by the COVID-19 pandemic, namely:
 - SACE S.p.A. (i.e., the Italian Export Credit Agency, a joint stock company controlled by Cassa Depositi e Prestiti S.p.A.) on behalf of the Italian State, will grant, until 31 December 2020, guarantees up to a maximum amount of EUR 200 billion (out of which at least EUR 30 billion are intended to support small and medium-sized enterprises) in favor of banks, national and international financial institutions and other entities entitled to grant loans in Italy ("SACE Guarantee"). Such a guarantee is counter-guaranteed by the Italian State with a first demand guarantee (without recourse).
 - The SACE Guarantee is a first demand and irrevocable guarantee that will guarantee, save for certain exceptions, loans granted to the companies for capital, interests and ancillary charges.
 - The effectiveness of the SACE Guarantee is subject to the approval of the European Commission, pursuant to Article 108 of the Treaty on the Functioning of the European Union.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Bankruptcy (*Fallimento*): According to Law Decree No. 23/2020 any request for bankruptcy filed by a creditor from 9 March to 30 June 2020 is not admissible. Only the applications filed by the public prosecutor to obtain precautionary or conservative measures to protect the assets or the business are deemed admissible.

Insolvency



Pre-bankruptcy composition (*Concordato Preventivo*): According to Law Decree No.23/2020:

- The deadline to perform the obligations related to the homologated pre-bankruptcy composition with creditors expiring between 23 February 2020 and 31 December 2021 is extended by six months.
- The debtor may amend the proposal to the creditors. In proceedings pending as of 23 February 2020, the debtor may request to be granted a period not exceeding 90 days for the amendment of the plan; such period will run from the date of the court's approval and is not subject to further extension. The request must be filed prior to the date of the hearing scheduled for the court's homologation of the pre-bankruptcy composition.
- The debtor may amend the deadlines for the completion of the pre-bankruptcy composition. In this case, the debtor may file, until the date of the hearing scheduled for the court's homologation, a memorandum setting out the new deadlines (which cannot exceed six months with respect to the original deadlines), accompanied by adequate documentation proving the need for said extension. If the judicial commissioner issues a favorable opinion, the court will proceed with the approval, expressly acknowledging the new deadlines.
- The debtor that has applied for the so-called "concordato in bianco" may be granted a further 90-day deadline to file the plan and proposal for the composition with creditors even if an application for bankruptcy is pending. In the request, the debtor must indicate the reasons of the requested extension with specific reference to the events that have occurred as a result of the COVID-19 emergency.

Debt restructuring arrangements / turnaround plans (*Accordi di Ristrutturazione dei Debiti / Piani di risanamento*):

According to Law Decree No.23/2020:

- The deadline to perform the obligations related to the homologated debt restructuring agreements expiring between 23 February 2020 and 31 December 2021 is extended by six months.
- The debtor may amend the restructuring plan. In proceedings pending as of 23 February 2020, the debtor may request to be granted a period not exceeding 90 days for the amendment of the plan; such period will run from the date of the court's approval and is not subject to further extension. The request must be filed prior to the date of the hearing scheduled for the court's homologation of the restructuring plan.
- The debtor may amend the deadlines for the completion of the restructuring arrangements. In this case, the debtor may file, until the date of the hearing scheduled for the court's homologation, a memorandum.
- setting out the new deadlines (which cannot exceed six months with respect to the original deadlines), accompanied by adequate documentation proving the need for said extension.

Insolvency



- A request for a 90-day extension may be filed by the debtor that was granted the deadline provided for by Article 182-bis, paragraph 7, of the Italian Bankruptcy Law.

Extraordinary administration (*Amministrazione Straordinaria*): According to Law Decree No. 23/2020 any request for extraordinary administration filed by a creditor from 9 March to 30 June 2020 is not admissible.

Only the applications filed by the public prosecutor to obtain precautionary or conservative measures to protect the assets or the business are deemed admissible.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Bankruptcy (*Fallimento*): The Law Decree No. 23/2020 has postponed the entry into force of the insolvency law reform until 1 September 2021.

Pre-bankruptcy composition (*Concordato Preventivo*): The Law Decree No. 23/2020 has postponed the entry into force of the insolvency law reform until 1 September 2021.

Debt restructuring arrangements / turnaround plans (*Accordi di Ristrutturazione dei Debiti / Piani di risanamento*): The Law Decree No. 23/2020 has postponed the entry into force of the insolvency law reform until 1 September 2021.

Extraordinary administration (*Amministrazione Straordinaria*): The Law Decree No. 23/2020 has postponed the entry into force of the insolvency law reform until 1 September 2021.

Equity

Support measures have been officially enacted. The Italian sovereign fund *Cassa Depositi e Prestiti* ("CDP") will create a dedicated fund to make investments, in compliance with EU regulation concerning state aid, in private and listed Italian companies (other than those operating in the banking, finance and insurance sectors) having an annual turnover higher than EUR 50 million. CDP will be able to make any kind of investment, e.g., equity, semi-equity, bonds, loans or other convertible instruments, but preferably convertible bonds and equity through subscription of capital increases.

In addition, another dedicated fund has been announced that will be available until 31 December 2020, under which the Italian Government will invest in small and medium-sized companies (other than those operating in the banking, finance and insurance sectors or having an annual turnover higher than EUR 50 million) by purchasing semi-equity instruments (*strumenti finanziari partecipativi* - SFP). The fund's initial endowment will be EUR 4 billion for 2020.

Taxation

Corporate income tax

See Personal Income Tax and Comments for further information.

Social security / Employment / Wage taxes / Personal Income Tax

General information

For taxpayers having their fiscal domicile, legal seat or place of business in the Italian territory, all tax obligations expiring between 8 March and 31 May 2020 are suspended with the sole exception of: (i) payments, (ii) applications of withholding taxes, including those related to the additional regional and municipal taxes, and (ii) filing of pre-filled tax returns for FY 2020 which falls under a specific law provision. Such tax obligations shall be carried out by 30 June 2020, without the application of penalties.

The following payments, expiring between 8 March 2020 and 31 March 2020, which should be made by corporate entities or professionals, having their fiscal domicile, legal seat or place of business in the Italian territory and whose revenues or fees for FY 2019 do not exceed EUR 2 million, are automatically suspended:

- I. deductions at source of income from employment;
- II. VAT;
- III. social security contributions and mandatory insurance premiums.

Such payments shall be made by 31 May 2020, without interest and penalties, or in a maximum of five monthly instalments. The amounts already paid cannot be refunded.

Taxpayers having their fiscal domicile, legal seat or place of business in Bertinico, Casalpusterlengo, Castelgerundo, Castiglione D'Adda, Codogno, Fombio, Maleo, San Fiorano, Somaglia, Terranova dei Passerini and Vo':

- I. tax payments and tax obligations expiring between 21 February 2020 and 31 March 2020 are suspended;
- II. deductions at source of income from employment are suspended.

Such payments shall be made and such obligations shall be fulfilled by 31 May 2020, without interest and penalties, in their full amount or in a maximum of five monthly instalments. The amounts already paid cannot be refunded.

Taxation

Withholding Tax

Withholding taxes on self-employment incomes shall not apply for taxpayers having their fiscal domicile, legal seat or place of business in the Italian territory and whose revenues or fees for FY 2019 do not exceed EUR 400,000, not having incurred any costs for employees in February 2020. In order to take advantage of this option, taxpayers must issue a specific statement and must pay the amount of withholding taxes not applied by the withholding agent by 31 May 2020, in full or in a maximum of five installments, without interest and penalties.

VAT

VAT payments due in March will be suspended until end of May for (i) companies with an annual turnover in 2019 not exceeding EUR 2 million and (ii) for companies engaged in specific industries more affected by COVID such as tourism. Such suspension will apply irrespective of any turnover threshold.

For payments due in April: at present no extension is provided. However the expectation is that the measures will be extended to April as well.

It seems that the Decree is only applicable to companies that have their fiscal domicile, legal or administrative seat in the Italian territory - however this needs to be clarified.

VAT payments of taxpayers having their fiscal domicile, legal seat or place of business in Bergamo, Cremona, Lodi and Piacenza provinces, the suspension shall apply regardless of the thresholds.

Payments shall be made by 31 May 2020, without interest and penalties, in their full amount or in a maximum of five monthly instalments. The amounts already paid cannot be refunded.

Excise / Import duties

N/A

Other taxes

For the tourism industry (and a number of other industries such as sport, schools, transportation. etc.) Employment taxes and social security contributions that are due in March 2020 will be suspended until 31 May, regardless of any turnover threshold.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Comments

Suspension of certain tax obligations / tax payments, without the application of administrative penalties. Suspension of tax audit and tax assessment activities, as well as the deadlines for the Tax Office to reply to tax rulings requests and automatic extension of the deadline for the Tax Office to issue tax assessments for FY 2015 (and FY 2014, should the taxpayer have omitted to file the relevant tax return). suspension of the deadlines for filing appeals before provincial and regional tax courts and the Italian Supreme Court, postponement of the deadlines for filing final briefs and automatic postponement of the hearings. Suspension of the deadlines connected to the pending administrative procedures (albeit mandatory).

The measures are included in a law decree which is immediately effective but has to be converted into law within 60 days of its approval (i.e., before 16 May 2020)

Deadlines concerning tax audits, assessments, collection and litigation activities to be carried out by the Italian Tax Authority are suspended from 8 March 2020 to 31 May 2020 (with the exclusion of audit activities concerning formal violations, as clarified by the Explanatory Notes to the Law Decree).

For the same period of time, the terms within which the Italian Tax Authority shall provide taxpayers with a reply to tax rulings requests filed are suspended."

Statute of limitation for the activities of the Revenue Agency are automatically extended by two years, Therefore, tax assessments concerning FY 2015 will expire on 31 December 2022 instead of 31 December 2020. Also FY 2014 will be included in the extension mentioned above, only in the case of omitted filing of the relevant tax return

The terms for paying tax amounts indicated in: (i) notice of payments issued by the Collector Agent, (ii) tax assessment immediately effective issued by the Italian Revenue Agency, Customs Authorities and Local Authorities, (iii) debit notices issued by the social security institutions and (iv) injunctions of the Local Authorities, expiring between 8 March 2020 and 31 May 2020, are automatically suspended and shall be made in full by 30 June 2020. The amounts already paid cannot be refunded.

Taxpayers that decide not to benefit from the automatic suspensions provided by one or more of the provisions, will be mentioned in the official website of the Ministry of Economy and Finances, in order to obtain a reputational advantage.

Taxation

Suspension of the terms related to tax litigation proceedings – Article 83

1. The hearings of pending tax litigation proceedings falling between 9 March 2020 and 15 April 2020, shall be postponed and rescheduled after 15 April 2020.
2. The present article provides also for a suspension until 15 April 2020 of the following judicial activities:
 - i. notification of appeals against any act falling within the jurisdiction of the provincial tax courts, including those subject to a mandatory attempt to reach a settlement pursuant to article 17-bis, paragraph 2 of Legislative Decree No. 546/1992;
 - ii. notification of appeals against the tax court's decisions (the text of the law decree is not straightforward on this. However, this interpretation is the sole in line with the ratio leg is);
 - iii. term for the issuance of any kind of tax court's decisions;
 - iv. any other deadline related to judicial proceedings already pending or to be started before provincial and regional tax courts, falling between 9 March 2020 and 15 April 2020.
3. Should one of the deadlines mentioned above start to run in the time-frame between 9 March 2020 and 15 April 2020, it will be considered as running as of 15 April 2020. While, in case of looking-back deadlines falling (entirely or partially) in the time-frame between 9 March 2020 and 15 April 2020, the relevant hearing will be postponed in order to grant that such deadline will expire after 15 April 2020.
4. In addition, the heads of judicial offices have the possibility to adopt measures aimed at minimizing the risks arising from the epidemiological emergency, such as the limitation of physical access to tax courts, the pleading of the hearings remotely, the payment of the courts stamp and the filing of court's briefs by electronic means only.

Suspension of the terms related to the pending administrative procedures – Article 103

1. Deadlines connected to administrative procedures (albeit mandatory) pending as at 23 February 2020 or started after 23 February 2020 are automatically suspended for a time-frame running from 23 February 2020 and until 15 April 2020. Also the 90-days term for the deemed negative answers to the requests of refund filed by the taxpayers follow in the present provision.
2. In particular, this provision is aimed at avoiding the creation of delays or "meaningful" silence in the activities of the Public Administration.

Taxation

3. Should one of the deadlines mentioned above start to run in the time-frame between 9 March 2020 and 15 April 2020, it will be considered as running as of 15 April 2020. While, in case of looking-back deadlines falling (entirely or partially) in the time-frame between 9 March 2020 and 15 April 2020, the relevant hearing will be postponed in order to grant that such deadline will expire after 15 April 2020.
4. In addition, the heads of judicial offices have the possibility to adopt measures aimed at minimizing the risks arising from the epidemiological emergency, such as the limitation of physical access to tax courts, the pleading of the hearings remotely, the payment of the courts stamp and the filing of court's briefs by electronic means only.

Suspension of the terms related to the pending administrative procedures – Article 103

1. Deadlines connected to administrative procedures (albeit mandatory) pending as at 23 February 2020 or started after 23 February 2020 are automatically suspended for a time-frame running from 23 February 2020 and until 15 April 2020. Also the 90-days term for the deemed negative answers to the requests of refund filed by the taxpayers follow in the present provision.
2. In particular, this provision is aimed at avoiding the creation of delays or "meaningful" silence in the activities of the Public Administration.



To read more about this topic, please see this alert:

Tax incentive to mitigate the economic impact of COVID-19

Extraordinary measures to minimize the impact of COVID-19 on tax matters



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals



First measure consisting of an aid scheme aimed at supporting companies, as well as liberal professions, in the form of a **repayable advance** granted in one or more instalments to allow beneficiaries to face their operating costs in the difficult situation caused by the coronavirus outbreak. Total budget estimated at EUR 300 million (23 March).

A **second measure** consisting of a **guarantee scheme** applicable to all companies, except those active in the promotion, renting and sale of building as well as holding of investments. It enables the granting of guarantees on loans at favourable terms to help businesses cover immediate working capital and investment needs. Total budget estimated at EUR 2.5 billion (27 March)

A **third measure** consisting of an aid scheme to support coronavirus related research and development (R&D) and investments in the **production of products relevant to the coronavirus outbreak**. The total estimated budget is EUR 30 million (8 April).

A **fourth measure** consisting of aid in the form of **direct grants** of maximum EUR 800,000 to undertakings (SMEs and large enterprises) that intend to continue their investment projects that were interrupted due to the COVID-19 outbreak. The estimated budget is EUR 30 million (20 May).

A **fifth measure** consisting of a scheme providing **direct grants** for undertakings (SMEs and large enterprises) operating businesses particularly affected by the COVID-19 outbreak (e.g., restaurants, bars, clubs, fitness studios, movie theatres). The estimated budget is EUR 200 million (29 May).

A **sixth measure** consisting of a scheme providing **direct grants** for SMEs active in the retail trade. The estimated budget is EUR 60 million (29 May).

Foreign Investment Restrictions

On 7 May 2020, a new draft law establishing a framework for screening foreign direct investments (FDI) in Luxembourg in order to protect strategic sectors, was submitted to the Luxembourg Parliament.

The draft law provides (i) a notification procedure to be carried out by the investor before making an investment in a enterprise established in Luxembourg, (ii) sanctions in case of non compliance by the investor of the screening procedure and (iii) judicial redress against screening decisions.

The draft law contains a non-exhaustive list of relevant factors that may be taken into consideration to determine whether an FDI is likely to affect security and public order or national or European essential interests (Screening Factors).



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

The Screening Factors may include the potential effects on, inter alia, (i) critical infrastructure (including energy, transport, water, health, communications, media, data processing or storage, aerospace, defense, electoral or financial infrastructure and sensitive facilities), (ii) critical technologies and dual use items, (iii) supply of critical inputs (including energy or raw materials), (iv) sensitive information (including personal data, or the ability to control such information) and (v) freedom and pluralism of media.

The context and the circumstances of the FDI may also be taken into consideration, in particular (i) whether a foreign investor is directly or indirectly controlled by the government of a third country, including through ownership structure or significant funding, (ii) whether the foreign investor has already been involved in activities affecting security and public order or national or european essential interests or (iii) whether there is a serious risk that the foreign investor engages in illegal or criminal activities.

Debt

The Luxembourg Government and the Luxembourg tax authorities adopted a series of measures to support Luxembourg businesses suffering from the COVID-19 lockdown, facilitate bank financing and defer payments linked to tax deadlines such as,

Repayable financial aid granted to support businesses (large, medium-sized and small companies), including natural persons carrying out their activities as their main activity and in self-employment, experiencing temporary financial difficulties as a result of the COVID-19 crisis and to cover operating costs (personnel expenses and rental costs (rent plus charges) of the business for the months falling within the period from 15 March 2020 to 15 May 2020. The aid can amount up to 50% of the admissible expenses without exceeding EUR 500,000 per business (including a group comprising the applicant business and connected undertakings);

State guarantee scheme for new bank loans granted by credit institutions between on 18 March and 31 December 2020 for companies, and self-employed experiencing temporary financial difficulties as a result of the COVID-19 crisis and for a maximum duration of 6 years, under certain conditions provided by the law of 18 April 2020 aiming to set up a guarantee scheme in favor of the Luxembourg economy in the context of the COVID-19 pandemic;

The Société Nationale de Crédit et d'Investissement (SNCI), a public-law banking institution specialized in medium and long term financing of Luxembourg based companies, put in place a "Special Anti-Crisis Financing – SACF", for a maximum total amount of 400 million euros for Luxembourg SMEs and large companies which possess a business permit, with a view to financing any exceptional needs that have arisen in light of the COVID-19 crisis, for financing decisions taken until 31.12.2020. This is indirect financing via the company's usual bank - the SNCI finances up to 60% of the required amount, provided that the bank finances 40%;



Home



Summary



EMEA



AMERICAS



AP

Debt

Cancellation of the first and/or second quarterly advances for 2020. This concerns income tax (of firms) and municipal business tax.

On 25 March 2020, the Luxembourg government adopted a Grand-Ducal Regulation suspending the time-limits in jurisdictional matters and temporarily adapting certain other procedural conditions, which was amended on 1 April 2020. This Grand-Ducal Regulation provides a suspension of the obligation to make an admission of cessation of payments leading to bankruptcy ("aveu de faillite") during the state of crisis declared by the Luxembourg Government until 24 June 2020, following the adoption of a Grand-Ducal Regulation dated 18 March 2020 and a law dated 24 March 2020.

On 6 April 2020, a new draft law n° 7552 was submitted to the Luxembourg parliament in order to extend the above-mentioned period of suspension of two months after the state of crisis and cover bankruptcy claims on assignment against companies.

Equity

No (semi-) equity measures have been announced.

Taxation

Corporate income tax

On 17 March 2020, the Luxembourg government announced supportive measures for corporate taxpayers, independents as well as individuals suffering cash flow difficulties because of the COVID-19 Pandemic (for further reading, [click here](#)). On the same day, the Luxembourg tax authorities (*Administration des Contributions Directes – the "ACD"*) released some practical guidance in a Newsletter. Taxpayers may request:

- A cancellation of the 2020 1st or/and 2nd quarterly advances for (corporate) income tax and municipal business tax, (Tax advance Cancellation Request Form). Note that net wealth tax quarterly advances are not covered by the present measure. Instead of a cancellation, a taxpayer is allowed to simply reduce the advances. In that latter case, the taxpayer should contact the relevant tax office through a motivated written request.
- A four-month extension of the payment deadline for corporate income taxes and net wealth taxes due after 29 February 2020 without penalties for late payment (Tax Payment deadline extension Request Form).

Requests should be filed online or sent through the mail or via email todivinsimp@co.etat.lu. They will be automatically accepted and each taxpayer should receive written confirmation. Alternatively, the taxpayer could fill in the online forms for Tax Advance Cancellation Request and Tax Deadline Extension Request available as from 23 March 2020 on the ACD's website to the extent the tax office is identified.



Home



Summary



EMEA



AMERICAS



AP

Taxation

The deadline for filing individual and corporate tax returns is postponed to 30 June 2020. Same date should be considered to cancel or amend the choice to be subject to tax on a standalone basis.

As a consequence of the COVID-19 outbreak, the ACD premises are exclusively open by appointment.

Suspension of time limits in judicial matters

On 25 March 2020, the Government decided to suspend, the time limits for proceedings before the administrative courts. Time limits for complaints, within the meaning of paragraph 228 of the amended General Tax Law of 22 May 1931 ("*Abgabenordnung*") are suspended until 30 June 2020.

The time limits for formal hierarchical appeal, within the meaning of paragraph 237 of the amended General Tax Law of 22 May 1931 ("*Abgabenordnung*") are suspended until 30 June 2020.

Both deadlines are still under discussion as the bill of law 7555 of 7 April 2020 introducing these changes has not been adopted yet.

Social security / Employment / Wage taxes / Personal Income Tax

French individual cross-border workers

On 19 March 2020, the French and Luxembourg authorities declared that the current situation linked to the coronavirus constitutes a case of force majeure. From Saturday 14 March 2020, the presence of a French resident cross-border worker exercising his/her activity from home in France should not be taken into account in the calculation of the 29-day rule (i.e., maximum number of days that a French resident working in Luxembourg is entitled to spend abroad for work while not being subject to tax in France on Luxembourg sourced employment income) as foreseen in the Protocol to the Double Tax Treaty signed between France and Luxembourg in 2018. This measure is applicable until further notice and additional information in this respect should be provided shortly. For further reading, [click here](#).

Belgian individual cross-border workers

On 16 March 2020, Belgium and Luxembourg governments agreed on disregarding the 24-day rule included in the final Protocol of the Belgian-Luxembourg Convention which corresponds to the maximum number of days a cross border worker resident in Belgium is allowed to work outside Luxembourg without being subject to tax in Belgium on Luxembourg sourced employment income.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Therefore, from Saturday 14 March 2020, the presence of a worker employed by a Luxembourg resident employer exercising his/her professional activity from home in Belgium will not be considered in the calculation of the 24-day period. This measure is applicable until further notice. For further reading, [click here](#).

German individual cross-border workers

Luxembourg has reached an agreement with Germany concerning teleworking during the current COVID-19 pandemic.

According to a press release dated 2 April 2020, the German and Luxembourg authorities have agreed that working days in which workers work remotely from their main place of residence as a result of measures to fight the pandemic can be deemed as working days in the country in which the work would normally have been carried out (Luxembourg).

The working days in which German cross-border workers work from home during the COVID-19 pandemic will thus not be counted within the 19-day tax limit, which was set out in an agreement entered into between Germany and Luxembourg in May 2011.

This measure is applicable from 11 March 2020 and until further notice. The exact modalities for the application of this agreement will be communicated at a later date.

VAT

The VAT authorities (*Administration de l'Enregistrement, des Domaines et de la TVA*, the "AEDT") have started to reimburse all VAT credit balances below EUR 10,000 as of 16 March 2020. This is a measure answering the liquidity needs of approximately 20,000 Luxembourg companies, the Luxembourg government said.

Additionally on 18 March 2020, the AEDT announced that no penalties will apply upon late filing of VAT returns. This measure will apply until otherwise stated by the AEDT (for further reading, [click here](#)).

Moreover, the AEDT grants VAT payment deadline extension upon request.

This measure is available for any person subject to VAT (natural and legal persons) as well as non-taxable legal persons identified for VAT who: are exposed to financial difficulties having a direct link with the COVID-19 crisis;

wish to benefit from the fiscal measures decided by the Luxembourg Government to deal with the spread of the coronavirus.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Any person can submit their request for deferral of payment of the VAT due online via MyGuichet.lu, without the need for a LuxTrust certificate: either directly:

- by the operator of the individual company, or;
- through the company's manager; or indirectly, through their representative.

As a consequence of the COVID-19 outbreak, the AEDT premises are exclusively open by appointment.

Excise / Import duties

N/A

Other Taxes

Withholding Tax on savings income for Luxembourg resident individuals - extension of deadline:

Regarding the income allocated for the 2019 tax year, the deadline set for the levy method's options available to beneficial owner provided for in Article 6 bis, 2 of the amended law of 23 December 2005 introducing a final withholding tax on certain interest income realized by qualifying Luxembourg resident individuals (initially 31 March) is fixed at 30 June 2020.

Deadline for income tax assessment and municipal business tax assessment for individuals extended:

The deadline set under paragraph 167, paragraph 4 last sentence, of the amended general tax law of 22 May 1931 ("*Abgabenordnung*") and beyond which an extension of the deadline for filing tax assessments for individuals and municipal business tax is not permitted (initially 30 June) is extended until 31 December 2020.

The bill of law 7555 of 7 April 2020 introducing these changes has not been adopted yet. They may therefore be subject to amendments.

Comments

N/A



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

Launch of an online platform called "SMART" for:

- requests for special authorizations for any foreign exchange transaction not expressly defined or provided for in the provisions of foreign exchange regulations (e.g., opening of foreign accounts by residents, etc.).
- ability to file electronic reporting of foreign exchange transactions.

Debt



During the Covid-19 Pandemic period, Moroccan authorities, in collaboration with banks have launched several debt relief measures in order to help companies impacted by the current crisis. Please find below a brief overview of these measures.

I. Debt relief measures implemented by the Moroccan Banks Association

The Moroccan Banks Association has announced several debt relief measures to be implemented by the banks during this Covid-19 period. These measures are the following:

1. For companies requesting it, banks will grant a 3 months postponement period (renewable), for their medium and long-term loans deadlines.
2. Banks will also cover working capital needs of companies ("besoins en fonds de roulement"). As such, to enable companies to cope with activities and cash flows reductions, banks will grant extensions for their current operations: loans, refinancing.
3. Banks will also grant all their clients requesting it in writing 3 months postponement (renewable once) of payment deadlines relating to their amortizable maturities (real estate and consumer loans).

Please note with respect to items (1), (2) and (3) that assessment of postponement / loans attribution is based on a case-by-case analysis.

4. Bank Al Maghrib (the Moroccan banking regulator) has ensured that the supply of fiduciary money will continue. Bank Al Maghrib has also decided to reduce its key interest rate by 25 basis points. It is therefore now set at 2%.



Home



Summary



EMEA



AMERICAS



AP

Debt



II. Damane Oxygen

As of today, Damane Oxygen represents a debt relief guaranteed by the state during this Pandemic period.

(a) Brief description of the mechanism (aim, purposes and entities involved)

Damane OXYGEN was created under the initiative and control of the Minister of Finances in response to the COVID-19 crisis. It aims at mobilizing financing resources in favor of companies whose cash flow has deteriorated due to COVID-19 pandemic and related crisis. It covers 95% of the amount of the credit granted by the banks to companies during this period. Thus, it enables banks to quickly set up exceptional overdrafts to finance the working capital requirements of applying companies.

Damane Oxygen is intended for very (a) small and medium sized companies impacted by the crisis and whose annual turnover is not exceeding MAD 200 million but also for (b) companies whose annual turnover is between MAD 200 million and MAD 500 million and whose activity was impacted by the crisis. The mechanism have been evolving recently in order to include companies operating in the real estate sector as well.

For companies without short-term financing lines, this exceptional overdraft can amount to up to MAD 5 million.

The Moroccan insurance sector has contributed to MAD 100 million to the Damane Oxygen mechanism.

(b) Eligibility criteria and application procedure

Companies whose turnover amount is (i) equivalent or beneath MAD 200 million or whose turnover is between MAD 200 million and MAD 500 million, (ii) who are impacted by crisis and (iii) whose cash flow has deteriorated due to the Covid-19 crisis, may apply by sending a Damane Oxygen loan request letter to their banks. Such request shall include documentation attesting of the companies fixed expenses (salaries, rent, water and electricity bills, etc.). The bank then grants a transfer authorization to cover three months of expenses. (i.e. April, May and June).

(c) Interest rates applying and Loan reimbursement

The reimbursement of the loan can be performed until the end of the year and can be extended up to 5 years depending on the case and on the company's current situation.

Interest rate applying to these loans amounts to 4%, plus a guarantee commission of 0.1% per year.



Home



Summary



EMEA



AMERICAS



AP

Debt



(d) Overdrafts' limitations

Exceptional overdraft intended to meet current expenses that cannot be deferred or suspended by the company may be granted. This overdraft cannot be used to absorb overruns on the line, in any case. The amount of the overdraft granted represents a maximum of 20% of the existing operating lines (or of the lines to be implemented) within the limit of MAD 20 Million.

In the event that (i) the overdraft granted represents more than 20% of the existing operating lines and (ii) does not cover 3 months of current fixed expenses, the overdraft limit line will then correspond to the amount of the expenses incurred during such 3 months.

For companies without operating overdraft lines, the bank may grant an exceptional overdraft within the limit of MAD 5 million in order to cover 3 months of current expenses. The amounts to be withdrawn from this overdraft will have to be paid out after exhaustion of the granted operating lines by disbursement. They must also be used progressively and until June 30th, 2020, upon presentation of supporting documents and/or in the hands of the beneficiaries.



To read more about this topic, please see this alert: [New specific measures implemented in Morocco](#)

Insolvency



Is state support for distressed business available?

Yes. However, such measures do not concern the insolvency regime.

The state has set up several aid schemes for the benefit of the companies affected by the COVID-19 pandemic:

- The exceptional cash credit guarantee for the benefit of companies impacted by COVID-19 crisis with a turnover not exceeding MAD 500 million.
- The implementation of a zero interest rate credit (MAD 15,000) for self-entrepreneurs impacted by COVID-19 crisis, refundable over a period of three years with a grace period of one year.
- A derogatory accounting treatment to amortize the grants and charges relating to the period of the state of health emergency over five years.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

With the exception of criminal claims and summary proceedings, all judicial claims and the time limits relating thereto are suspended until the end of the state of health emergency scheduled for 20 May 2020.

The COVID-19 pandemic will likely be considered as force majeure event exempting from liability. It is generally declared as such for public procurement contracts, subject to a case-by- case study.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

No.

Equity

No (semi-) equity measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals

First measure approved with a total estimated budget of EUR 23 million. The scheme provides direct grants of max. EUR 50,000 per project (and max. 2 project per company) to support certain providers of social support and health care in offering services at home during the coronavirus outbreak. (7 April)

A **second measure** consisting of a **loan guarantee scheme** (GO-C guarantees) for SMEs and large undertakings to meet liquidity needs of the companies in the context of the coronavirus outbreak.

Total budget estimated at EUR 10 billion (22 April)

A **third measure** consisting of aid in the form of **subsidised interest rates for loans** for SMEs active in the Netherlands, predominantly financed externally with equity, venture capital or microcredit. Total budget is estimated at EUR 100 million (24 April).

A **fourth measure** consisting of aid in the form of **direct grants** that will cover a max. of 70% of the loss of revenues or additional costs for **farmers and traders in the floricultural sector and undertakings in the specialty horticultural sector** and a max. of 44% of the loss of revenue or additional costs for potato growers. The estimated budget is EUR 650 million (8 May).

A **fifth measure** consisting of a **State guarantee scheme to trade credit insurers** to ensure that trade credit insurance remains available for all companies to secure their commercial exchanges. The overall estimated budget is not available yet (25 May).

A **sixth measure** consisting of aid to support SMEs in the form of **State guarantees of up to 95%** for small loans between EUR 10 and 50,000. The estimated budget is EUR 713 million (27 May).

Foreign Investment Restrictions

COVID-19 has had no impact on the Netherlands' foreign investment review regime.



Home



Summary



EMEA



AMERICAS



AP

Debt

The Dutch government has announced a wide range of financial, economic and fiscal measures. Debt-related measures include the following:

- a) The Dutch government has announced the extension of the GO-scheme (*Garantie Ondernemingsfinanciering*) which is an arrangement for medium and large companies affected by COVID-19 and guarantees half of any new funds which banks make available to Dutch borrowers. Furthermore, the Dutch government increased the budget to EUR 10 billion and the 80% (for medium and large companies) and 90% (for small and medium enterprises, "SMEs") state guarantee on loans up to EUR 150 million.
- b) The existing credit guarantee scheme for SMEs (Borgstelling MKB Kredieten, "BMKB") has been further expanded as per the end of March 2020 until at least 30 June 2022 to enable SMEs to attract financing in amounts which would otherwise not be possible. The government budget is EUR 1.5 billion. Apart from a company's creditworthiness, there are some general requirements to apply for the scheme: the BMKB is available for companies that (i) exist longer than 3 years, (ii) employ less than 250 employees, and (iii) generate less than EUR 50 million of turnover or have a balance sheet total of less than EUR 43 million. Under the BMKB, up to 75% of the credit can be financed by the government whereas the government covers (*staat borg voor*) 90% thereof. The company has to cover 10%. Companies cannot apply for the BMKB but can ask their accredited financier (e.g., the bank) to make use of the scheme. The maximum credit is EUR 1.5 million. Moreover, the BMKB premium has been decreased from 3.9% to 2%, which makes the scheme more accessible to entrepreneurs. The Dutch cabinet also indicated that banks should consider whether they still charge clients reasonably.
- c) Supplier credit is a common form of business financing in the Netherlands. This form of business financing only works if short-term payment terms (usually 30 to 60 days) are insured, by credit insurers or otherwise. Because of COVID-19, borrower default risks increase, which jeopardises the supplier credit system. To prevent insurers from lowering or cancelling insurance limits for entrepreneurs, the Dutch Ministry of Finance is preparing a EUR 12 billion reinsurance plan for short-term credit insurances for the year 2020. Furthermore, the conditions to make use of export credit insurance are temporarily expanded.
- d) SMEs with a business within one of the industries impacted by the Dutch government measures can also apply for a one-off net payment of EUR 4,000 (under a compensation scheme called "**TOGS**" (*Tegemoetkoming Ondernemers Getroffen Sectoren COVID-19*)). If a company has a main activity which corresponds to one of the SBI codes that apply under the TOGS, or is otherwise eligible, and meets the other requirements, it is entitled to receive such a one-off payment. Companies can submit a request through the website of the Dutch Enterprise Agency.



Home



Summary



EMEA



AMERICAS



AP

Debt

- e) The Dutch cabinet announced specific credit opportunities for startups, scale-ups and other innovative companies. Such companies may apply for bridge financing by the Regional Development Agencies (*Regionale Ontwikkelingsmaatschappijen*). The government budget will initially be EUR 100 million. This scheme will be accessible in the fourth week of April. Also, the Dutch government provides loans to innovative and starting entrepreneurs via the Early Phase Financing facility (*Vroege Fase Financiering*) and the Innovation Credit program (*Innovatiekrediet*). Entrepreneurs may also be eligible for suspension of interest payments and repayment of their loans for a period of 6 months (from 1 April 2020 until 1 October 2020).
- f) The microcredit provider credits finances and coaches companies and start-ups with financing up to EUR 250,000. The Dutch government announced that it will support Qredits to extend credits by up to six months and to decrease its interest rates to 2% during such extension period.
- g) The planned phase out of the Growth Facility measure (*Groeifaciliteit*) will be postponed until 1 July 2021. This facility aims to help entrepreneurs who need venture capital (e.g., for quick growth, a transaction or foreign expansion) by providing the financier of a business with a 50% state guarantee on subordinated loans and shares of private equity firms.

Insolvency



Is state support for distressed business available?

Suspension of Payments ('*Surseance van betaling*')

Outside the context of SoP or bankruptcy specifically, but in connection with COVID-19, the Dutch government issued a package of measures to aid businesses financially:

- The *Tijdelijke Noodmaatregel Overbrugging Werkgelegenheid* (NOW) to provide support to employers;
- A one-time reimbursement for economic loss due to COVID 19 of EUR 4,000 (*Tegemoetkoming Ondernemers Getroffen Sectoren*, TOGS) (<https://english.rvo.nl/subsidies-programmes/reimbursement-economic-loss-due-covid-19>);
- The *Tijdelijke overbruggingsregeling zelfstandig ondernemers* (TOZO) (state support to independent entrepreneurs);
- The *Garantie Ondernemersfinanciering* (GO-C) (state acts as guarantor for certain loans);
- The *Borgstelling MKB Kredieten* (state acts as guarantor for certain loans of SMEs);



Home



Summary



EMEA



AMERICAS



AP

Insolvency



- the Corona Overbruggings Lening voor Start-ups and Scale-ups (loan facilities for start-ups and scale-ups);
- Credits (microfinancing);
- aid package for businesses in the agricultural, horticultural and fisheries sectors.

Bankruptcy ('Faillissement') : N/A.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Suspension of Payments ('Surseance van betaling'): No general restrictions on creditor actions were introduced in connection with COVID-19.

There is a set of tax measures to aid businesses in connection with financial distress due to COVID-19

(<https://www.belastingdienst.nl/wps/wcm/connect/nl/ondernemers/content/coronavirusbelastingmaatregelen-om-ondernemers-te-helpen>)

Bankruptcy ('Faillissement'): No.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Suspension of Payments ('Surseance van betaling'): Yes, the Dutch Scheme of Arrangement (*Wet Homologatie Onderhands Akkoord*) is expected to be introduced shortly (by 1 July 2020). The draft legislation is currently being finalized by parliament. The Dutch Scheme of Arrangement is set up to combine the best of both the UK scheme and US Chapter 11 procedures. It is very flexible and cost efficient and requires limited court involvement. It is meant to allow debt restructuring for businesses that are otherwise viable outside of bankruptcy, also binding dissenting (classes of) creditors.

Bankruptcy ('Faillissement'):

Equity

No (semi-) equity measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate income tax

Lowering of preliminary assessment. If the amount of the new preliminary assessment is lower than the tax you already paid in the first months of the year the difference will be refunded.

Social security / Employment / Wage taxes / Personal Income Tax

N/A

VAT

See comments.

Excise / Import duties

N/A

Other taxes

See comments.

Comments

- A request for a payment deferment for 3 months can be submitted. This submission covers several taxes, including Personal Income Tax, CIT, Wage Tax, VAT, Healthcare Insurance Act. Penalties will not be charged during this period.
- An additional extension of another 3 months can be requested per letter.
- In case the sum of payable taxes is lower than EUR 20,000: the entrepreneur can include arguments to substantiate the need for an additional extension, for example by including numbers that show a drop in revenues in comparison to the months before the COVID-19 crisis.
- Returns should still be submitted in time.
- Interest will be lowered to 0.01% as of 23 March 2020.
- The measures around Tourist Tax are determined per municipality.



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals



A **first scheme** consists of a **guarantee scheme** on existing or new loans to support companies affected by the coronavirus outbreak. The support consists in the provision by the Polish National Development Bank, Bank Gospodarstwa Krajowego, of public guarantees on investment loans and working capital loans with a maximum maturity of 24 months to medium and large Polish companies active in all sectors. (3 April)

A **second measure** provides liquidity support in the form of **guarantees on loans and subsidised interest rates for loans** with maximum maturity of 6 years which is open to all companies (SMEs and large undertakings). The scheme is co-funded by European Union funds under shared management, notably the European Regional Development Fund and the European Social Fund. (8 April)

A **third measure** consisting of a **direct grant scheme** intended to partially cover interests on loans, which should normally be borne by the borrower. The scheme is open to all undertakings irrespective of their size and the direct grant cannot exceed EUR 800,000 per undertaking.

The total estimated budget is EUR 115 million (10 April).

A **fourth measure** consisting of aid in the form of **guarantees on loans and subsidised interest rates** that will be provided under Regulation of the Minister of Development Funds and Regional Policy to SMEs and large undertakings active in all sectors, with the exception of the financial sector.

Total budget estimated at EUR 110 million (22 April)

A **fifth measure** consisting of **11 Polish State aid schemes** to support the Polish economy in the context of the coronavirus outbreak. Under the schemes, the public support will take the form of (i) direct grants, (ii) repayable advances, (iii) tax and payments advantages, (iv) deferrals of tax payments and (vi) wage subsidies.

Total budget estimated at EUR 7.8 billion (23 April).

A **sixth measure** consisting of aid in the form of **direct grants and repayable advances**, possibly co-funded by ESIF funding, for all types of undertakings. Total budget estimated at EUR 700 million (24 April).

A **seventh scheme** in the form of **repayable advances**, with a total budget of EUR 16.6 billion (approximately PLN 75 billion), to support the Polish micro companies and SMEs in the context of the coronavirus outbreak. (27 April)

An **eight measure** consisting of aid in the form of **public loans, guarantees on loans and sureties with a maximum of EUR 800,000** under the mechanism of regional operational programmes and national operational programmes 2014-2020. The overall budget of the measure is estimated at EUR 450 million (11 May).



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals

A **ninth measure** consisting of aid in the form of **subsidized interest rate loans** to large enterprises affected by the COVID-19 outbreak. The estimated budget is EUR 2.2 billion (25 May).

A **tenth measure** consisting of aid in the form of subsidised loans (and partial capital rebates on these loans) granted at favourable interest rates to certain larger SMEs (more than 150 employees and more than EUR 21 million turnover) and large enterprises. This measure is part of the larger programme "Financial shield for large enterprises". The estimated budget is EUR 1.6 billion (29 May)."

Foreign Investment Restrictions

No new measures have been announced in specific response to COVID-19.

Debt

The most significant change, from the point of view of financial markets, introduced under the provisions of the Act on COVID-19, is a solution enabling domestic banks to change the terms and conditions, and the deadlines specified in credit agreements or cash loan agreements concluded with enterprises, non-governmental organisations and public benefit purpose entities upon agreement with the borrower.

Such amendments could be made to all contracts for which financing was granted before 8 March 2020 and where, at the same time, such amendment is justified by the borrower's financial and economic situation. Such amendment shall be made on terms agreed between the domestic bank and the borrower and shall not cause a deterioration of the borrower's financial and economic situation.

The above solution is linked with the solution which entitles Bank Gospodarstwa Krajowego to grant (in connection with the effects of COVID-19) guarantees for repayment of credits granted to entrepreneurs (excluding micro and small entrepreneurs). This applies to Credits intended to provide financial liquidity.

Amendments may also be implemented to contracts concluded with other creditors. Such changes being made not under the COVID-19 regime but under the principle of contractual freedom.



Home



Summary



EMEA



AMERICAS



AP

Debt

Repayable financing and credits within the meaning of the Act on Certain Forms of Support for Housing Construction

The Act on COVID-19 introduces new rules for the calculation of the repayable funding period and the credit period. This period does not include the grace period for the repayment if this grace period was requested by the borrower in connection with a state of emergency or state of epidemic.

Period of subsidies within the meaning of the Act on Financial Support for Families and Other Persons in Purchasing Their Own Apartment

The Act on COVID-19 introduces similar new rules for the calculation of the subsidy period within the meaning of the Act on financial support for families and other persons in acquiring their own housing. This period does not include the grace period for the payment of capital instalments or interest on a soft loan if this grace period was granted at the request of the borrower in connection with a state of emergency or state of epidemic.

However, the interest is capitalized during the grace period for the payment of the capital instalments or interest on the preferential credit. This may raise doubts as to its compliance with Polish law.

Cheaper consumer credit

The new law introduces an algorithm for calculating the maximum amount of non-interest cost of consumer credit. For loans with a repayment period of less than 30 days, the costs may not be more than 5 percent of the total amount of credit. For loans repaid after at least 30 days, the level of non-interest cost may be no more than 15% of the total amount of credit plus 6 percentage points for each year of duration of the credit, providing that no more than 45% of the total amount of the consumer credit over the entire maturity of the loan.

Example: the non-interest cost of a loan granted to a consumer, in the amount of PLN 1,000, on the basis of the existing and the new regulations:

Credit period **Current cost of the credit** **Cost of the credit in accordance with the Law on COVID-19** **7 days** PLN 256 **PLN 50** **30 days** PLN 275 **PLN 155** **90 days** PLN 324 **PLN 165**

The OCCP may impose financial penalties of up to 10% of the annual turnover on lenders who violate these regulations.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is state support for distressed business available?

Yes, wage subsidies to maintain employment and postponements of social security contributions. However, these measures are not linked to the opening of any kind of bankruptcy or restructuring proceedings.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

As of April 2020, there have been two acts of the Polish Parliament relating to COVID-19. However, the situation is constantly changing and the new COVID-19 legislation might still be adopted.

According to the first COVID-19 legislation, the time limits in bankruptcy and restructuring proceedings cannot begin, and those already begun are suspended. This relates only to court proceedings already initiated. Consequently, the courts still have to decide on the restructuring or bankruptcy motions, but the time limits for appealing against the courts' decisions or for filing applications with creditors' claims cannot begin, while those already begun are suspended. Thus, after the first decision of the court, the proceedings are mostly halted. Based on the second COVID-19 act, cases were added to the catalogue of urgent cases to deal with a restructuring request, thus in these cases the time limits are not suspended.

Under the second COVID-19 act, the regulation of time limits also covers the period for filing an application for bankruptcy. If the basis for declaring bankruptcy arose during the period in which an epidemic, emergency situation or the state of epidemic occurred, and the state of insolvency was caused by COVID-19, the period does not begin and is interrupted. After this period, the deadline resumes. If the state of insolvency arose during a period of an epidemic or the outbreak, it is assumed that it occurred because of COVID-19.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

We do not have such information.



Home



Summary



EMEA



AMERICAS



AP

Equity

The law on equity and semi-equity support measures in Poland related to the COVID-19 pandemic has been introduced in an amendment to the Act dated 4 July 2019 on the System of Development Institutions. The main focus of the new measures is to provide various forms of financing to entrepreneurs affected by the COVID-19 pandemic and to mitigate its negative economic effects.

The financing will be provided by the Polish Development Fund (*Polski Fundusz Rozwoju*) ("**PFR**"), which a joint-stock company wholly owned by the State Treasury of the Republic of Poland. The general purpose of the PFR is to make investments into Polish businesses leading to the sustainable economic growth of the Polish economy. For equity and semi-equity support measures, the PFR will make investments directly or through other designated entities. The support measures are available to SMEs as well as large business undertakings.

Equity support measures

Equity support will be focused on acquisitions of existing shares or newly issued shares in the increased share capital of Polish companies. Equity support may also be provided through a participation in partnerships.

Semi-equity support measures

The new law does not determine specific details on semi-equity support measures. However, based on its current wording and statements of governmental officials, the semi-equity support measures may cover convertible bonds and loans, as well as other convertible instruments such as subscription warrants.

Taxation

Corporate income tax

Deadline for filing of the CIT return should be extended for non-governmental organizations.

Currently, the taxpayers are obliged to increase their tax base by the amount of unpaid liabilities in a given period (included in tax deductible costs). These provisions should be suspended.

If in FY20 the taxpayers achieve revenue at least 50% lower than in FY19, they will be allowed to recognize the potential tax loss incurred in FY20 in their tax result for FY19 - up to PLN 5m / c. EUR 1.1m (while generally carry-back of tax losses is not allowed in Poland).



Home



Summary



EMEA



AMERICAS



AP

Taxation

Social security / Employment / Wage taxes / Personal Income Tax

N/A

VAT

The use of the new Standard Audit File obligations (Polish: JPK_VAT) should be postponed to 1 July 2020.

Excise / Import duties

N/A

Other taxes

Deadline for the payroll tax advances payment for the period March - April should be extended for the tax remitters to 1 June 2020.

- **Real Estate Tax:** The municipalities should be allowed (at their own discretion) to exempt the taxpayers from the RET obligations.
- **Minimum Tax on Real Properties:** Deadline for Minimum Tax payment for the period March - May FY20 should be extended to 20 July 2020.

Comments

The standard extension fee which normally is due for (i) extending the tax payment deadlines or (ii) payment of tax liabilities in instalments - should be suspended.

The tax authorities should carefully consider, if in given circumstances certain tax audits / tax proceedings / execution proceedings should be suspended.

The taxpayers should be allowed to decrease their tax income by the amount of donations made for the benefit of certain entities involved in combating the pandemic.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is state support for distressed business available?

The Russian government approved a list of measures to support organizations and individual entrepreneurs working in the areas most affected by the spread of COVID-19 (including travel, tourism, culture, entertainment, sports, catering and services).

The list includes the following measures:

- a) The deadlines for paying taxes, fees and insurance benefits for small and medium-sized companies were extended from three to six months.
- b) Tax audits and checks on compliance with currency laws were postponed until 31 May 2020 (inclusive) (for unscheduled inspections of small and medium-sized organizations, the permission of the prosecutor's office will be required).
- c) The deadlines for submitting tax returns and calculations, which must be submitted in March-May 2020, are extended for three months; the deadlines for submitting documents, information and explanations for 20 working days; the deadlines for submitting documents related to the establishment of tax residency and financial information for 2019 for three months; deadlines for filing claims for taxes, fees, insurance benefits for six months.
- d) The deadlines for paying insurance benefits (industrial injury insurance) were extended from four to six months.
- e) The rate of insurance for small and medium-sized organizations was reduced.
- f) Small and medium-sized organizations working in the most affected sectors of the economy may ask creditors to introduce so-called "credit holidays" under the credit agreements (to suspend monthly payments and not to charge interest under credit agreements).
- g) Tenants working in the most affected sectors of the economy may receive a deferral of rental payments under real estate lease contracts.
- h) Small and micro organizations working in the most affected sectors of the economy can get interest-free payday loans.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

On 3 April 2020, the Russian government enacted a six-month moratorium on bankruptcy claims by creditors against companies and on the recovery of debts and penalties. The moratorium applies to companies whose activities were most affected by COVID-2019 (including travel, tourism, culture, entertainment, sports, catering and services) as well as to strategic and systematically important companies.

During the moratorium:

- a) Courts are to return the insolvency petitions (1) filed during the moratorium and (2) filed prior to the moratorium but not accepted for consideration by the date the moratorium was introduced.
- b) Notices on intention to file an insolvency petition filed during the moratorium shall not be published.
- c) Creditors who have pledges over property are prohibited from enforcing that security (although enforcement against other forms of security, such as direct debit agreements, guarantees and suretyships, have not been prohibited).
- d) Existing enforcement proceedings against protected debtors should be suspended (although property arrests and other restrictions remain in place). However, to sue the debtor in court during the moratorium period and to submit a writ of execution directly to a bank is not prohibited.
- e) The obligation of a protected company to file a voluntary bankruptcy petition under the Bankruptcy Law is suspended during the moratorium period (although debtors still have the right to do so).
- f) To protect the interests of creditors, protected debtors are prohibited from carrying out certain actions that could result in any unjustified extraction of value (namely, share buybacks and paying dividends, set-offs).
- g) Financial sanctions (fines, default interest, etc.) should not accrue for affected debtors during the moratorium period.
- h) If insolvency proceedings are initiated within three months after the termination of the moratorium, any foreign currency nominated debt (which was incurred before the moratorium) is converted into rubles at the Russian Central Bank's exchange rate as of the date of enactment of the moratorium or the date of commencement of bankruptcy proceedings (whichever exchange rate is smaller).



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Moreover, the moratorium affects the challenging of debtors' transactions. If insolvency proceedings are initiated within three months after the termination of the moratorium, certain transactions entered into by the debtor during the moratorium period may be challenged when:

1. The amount exceeds 1% of the debtor's assets; and
2. The transaction is outside the ordinary course of business.

The existing time periods for challenging debtors' transactions have been extended, so as to include:

1. the corresponding period prior to the introduction of the moratorium,
2. the period of the moratorium,
3. the period within one year from the termination of the moratorium, but no later than the date of initiation of bankruptcy proceedings.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

In September 2019, a bill on extrajudicial bankruptcy proceedings for individuals was sent to parliament. The bill provides two additional options for individuals' bankruptcy proceedings: an extrajudicial procedure through a bankruptcy manager and a simplified court procedure. These options will be accessible for individuals if the general sum of debt is from RUB 50,000 to RUB 700,000 (approximately from USD 647 to USD 9,000 at the exchange rate of April 2020) and the individual did not alienate property worth more than RUB 3 million (approximately USD 40,000 at the exchange rate of April 2020) during the year prior to filing the application for bankruptcy.

In May 2019, the State Duma passed in the first reading a bill on a new procedure for including the creditors' claims in the register. The bill proposes that only the bankruptcy manager will be able to include creditors' claims in the register of the debtor. The bankruptcy manager must consider a creditor's claim no later than 30 days from the date of its receipt. Interested parties have the right to participate in the consideration. Information on the decision of the manager is posted within three days on the court's official website. Any interested person has the right to file a complaint against said decision with the court within 15 working days from the date of the information being posted on the website.



Home



Summary



EMEA



AMERICAS



AP

Equity

No (semi-) equity support measures have been announced.



To read more about this topic, please see this alert: [Corporate rules eased during coronavirus crisis quarantine](#)

Taxation

Corporate income tax

- Six months' deferral on paying corporate profits tax (and other taxes except for the VAT) for small and mid-size enterprises (Qualifying SMEs) that:
 - i. are included in the Russian State Registry of SMEs as on 1 March 2020 (companies whose annual turnover does not exceed RUB 2 billion (approximately USD 250 million, average headcount does not exceed 250 employees, participation of foreign shareholders does not exceed 49%)), and
 - ii. operate in industries severely affected by the COVID-19 quarantine (air and truck transportation, airport activities, culture and leisure activities, sports, tourism, hotel and restaurant business, education, conferences, exhibitions and consumer services).
- Amendments to certain tax treaties are expected. Increase in the withholding tax to 15% on dividends and interest paid "abroad, to offshore jurisdictions" to certain "transit" jurisdictions e.g., Cyprus (or termination of such tax treaties in case of lack of agreement). Official request to change tax treaty was sent to Cyprus on 1 April 2020, and to Luxembourg and Malta on 13 April 2020. The list of "transit" jurisdictions is currently being determined. The increased withholding tax rates may apply not earlier than 2021.
- Simplified rules for providing interest-free tax deferrals (instalment plans) for Qualifying SMEs operating in industries severely affected by the COVID-19 quarantine.

Qualifying SMEs/companies include:

- i. companies with a 10% decrease* of income (income from sale of goods and services);
- ii. companies with a 10% decrease* of income from sale of goods and services subject to the 0% Russian VAT (provided that such sales amount to more than 50% of all operations);



Home



Summary



EMEA



AMERICAS



AP

Equity

No (semi-) equity support measures have been announced.



To read more about this topic, please see this alert: [Corporate rules eased during coronavirus crisis quarantine](#)

Taxation

Corporate income tax

- Six months' deferral on paying corporate profits tax (and other taxes except for the VAT) for small and mid-size enterprises (Qualifying SMEs) that:
 - i. are included in the Russian State Registry of SMEs as on 1 March 2020 (companies whose annual turnover does not exceed RUB 2 billion (approximately USD 250 million, average headcount does not exceed 250 employees, participation of foreign shareholders does not exceed 49%)), and
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Qualifying SMEs/companies include:

- i. companies with a 10% decrease* of income (income from sale of goods and services);
- ii. companies with a 10% decrease* of income from sale of goods and services subject to the 0% Russian VAT (provided that such sales amount to more than 50% of all operations);



Home



Summary



EMEA



AMERICAS



AP

Taxation

- iii. companies receiving losses at the end of a reporting period in 2020 (if a company received profits in 2019);
- iv. SMEs applying special tax regimes.

*compared to the same reporting period of 2019.

- The deferrals may apply to corporate profits tax (and other taxes except for mineral extraction tax and excise tax) and advance tax payments due in 2020. The term of the deferral may depend on the company's financial position and may vary up to 1 year for tax deferrals and up to 5 years for instalment plans. The tax deferrals for Qualifying SMEs are interest free. Tax deferrals up to 6 months do not require collateral/bank guarantee for tax deferrals up to 6 months.

Social security / Employment / Wage taxes / Personal Income Tax

- Long-term reduction of social security contributions from 30% to 15% on salaries exceeding minimal wage for small and mid-size enterprises (SMEs). The deferral on paying social security contributions for micro-businesses (whose average headcount does not exceed 15 employees and annual turnover does not exceed RUB 12 million (USD 1.5 million))
- Simplified procedures for obtaining deferral of social security contribution payments due in 2020 may be available for qualifying SMEs/companies (same as for corporate profits tax purposes).

VAT

N/A

Excise / Import duties

Elimination of customs duties and simplification of customs formalities for import of certain categories of goods, such as medical goods.

Other taxes

(Moscow) Tax deferral until 31 December 2020, with respect to advance tax payments of Russian corporate property tax and land tax for companies operating in certain industries (trade, restaurants, tourism, leisure, culture and sports activities, cinemas, hotels, additional education, health-resort treatment, conferences and exhibitions, and consumer services). 13% individual income tax on interest on all RUB and foreign currency bank deposits and investments of individuals into debt securities exceeding RUB 1 million in total as of 2021 (previously exempt within Russian Central Bank rate +5% for ruble deposits). There are certain exemptions for small and low rate salary accounts.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Comments

Russia has also introduced special procedural rules for administering tax payments and tax audits in light of the COVID-19 quarantine:

- No collection of tax underpayments for SMEs and companies operating in industries affected by the COVID-19 quarantine until 1 May 2020.
- Postponement of accounting and tax reporting (except VAT) due in March - May 2020 for three months.
- Extension of the deadlines for collecting taxes, penalties and late payment interest for 6 months.
- Switch to the remote (online) reviewing of appeals and other claims via telecommunication channels; permission to submit materials during a tax audit in scanned copies.
- Freeze on new on-site tax audits and transfer pricing audits and suspension of current ones until 1 May 2020 (chamber tax audits may continue). The freeze may be further extended until 1 June 2020.
- Extension of procedural terms and deadlines for tax audits.
- Extension for 20 working days of the deadlines for providing documents and information requested by the Russian tax authorities in March - May 2020. Potentially no penalties for missing the deadline.



To read more about this topic, please see this alert: [Additional tax support measures during COVID-19 pandemic](#)



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

No new measures have been announced in specific response to COVID-19.

Debt

The government launched a financial and economic stimulus packages worth more than SAR 70 billion (approximately US\$ 18.6 billion), which consists of exemptions and postponement of some government dues to provide liquidity to the private sector. The measures include:

1. Exemption from expat levy for those whose Iqama (residency permit) has expired from now until 30 June 2020, by extending their Iqama for a period of three months without charge.
2. Enabling employers to refund the fees of issued work visas that were not used during the ban on entry and exit, even if they were stamped
3. Enabling employers to extend exit and re-entry visas that were not used during the ban on entry and exit from the Kingdom for a period of three months without charge.
4. Enabling business owners, for a period of three months, to postpone the payment of value-added tax, excise tax, income tax, and the submission of Zakat declarations and the payment of obligations due therefrom. The decision allows for grant zakat certificates without restrictions for the period of fiscal year 2019, and to accept instalment requests to the General Authority of Zakat and Income Tax without applying the condition of advance payment. In addition, postponing the execution of services suspension procedures and financial seizure by the General Authority of Zakat and Income, and setting the necessary criteria to extend the postponement period for the most affected activities as needed.
5. Postponing the payment of some government services fees and municipal fees due on private sector, for a period of three months, and setting the necessary criteria to extend the postponement period for the most affected activities as needed.
6. Authorising the Minister of Finance to approve lending and other forms of financing as well as exemption from payment of fees and returns on loans granted until the end of 2020, under the Corporate Sustainability Program initiative.



Home



Summary



EMEA



AMERICAS



AP

Debt

Debt Moratoria

The Saudi Monetary Fund (SAMA) has announced the introduction of a Private Sector Financing Support Program of SAR 50 billion (approximately US\$ 13.5 billion) in support of the following measures to contain the financial repercussions of COVID-19, namely:

1. **Supporting SME Finance:** The purpose of the program is to mitigate the impacts of cash flow fluctuations, support working capital, enable the sector to grow during the coming period and contributing to supporting economic growth, and maintaining employment. The program consists of three basic elements:
 - **Deferred Payments Program:** SAMA has provided a fund of SAR 30 billion (approximately US\$ 8 billion) for banks and financing companies to delay repayments to the financial sector (banks and finance companies) from SMEs for a period of six months as of 14 March 2020.
 - **Funding for Lending:** Concessional finance of approximately SAR 13.2 billion (approximately US\$ 3.5 billion) is being made available for SMEs by granting loans from banks and finance companies to (i) support business continuity and sector growth during the crisis; (ii) contributes to supporting economic growth; and (iii) maintains employment levels in these enterprises.
 - **Loan Guarantee Program:** SAMA has made available SAR 6 billion (approximately US\$ 1.6 billion) for banks and insurance companies to relieve SMEs from the finance costs of the KAFALA Program (a state-backed guarantee and loan program) for the purpose of minimising finance costs for entities eligible to utilise from those guarantees and loans during 2020.
2. **Supporting Fees of Point of Sale and E-Commerce terminals:** All stores and entities in the private sector will have their fees to payment service providers covered by SAMA up to SAR 800 million (approximately US\$ 210 million) for the next three months. SAMA will pay these fees to payment service providers participating in the national system. As regards institutions affected by the precautionary measures implemented in the holy cities of Makah and Medina, SAMA is coordinating with banks and finance companies to facilitate finance repayments of such institutions.
3. **Support for health workers:** SAMA has announced a new initiative, under which local banks will postpone repayment of loan installments for three months for employees working in the public and private health sector (the "Banks Initiative"). The new initiative will come into effect as of April 2020. Overall, SAMA is reassuring the market that the banking sector is still registering good performance indicators, and this will improve its resilience to cope with future challenges and crises. SAMA has also reaffirmed that it will continue its role of maintaining financial stability in the Kingdom.



Home



Summary



EMEA



AMERICAS



AP

Debt

On 29 March 2020, SAMA issued the following additional measures to address the challenges of COVID-19 (the "29 March 2020 measures"):

- 1. General Lending Support** SAMA has requested that banks work constructively with borrowers and industries affected by COVID-19. SAMA expects banks to engage in prudent and proactive actions, which are in the best interest of the banks, the borrowers, and the economy. For example, when appropriate, a bank may modify or restructure a borrower's debt obligations due to temporary hardships resulting from COVID-19 related issues and without further charges to the customer and/or business. Such efforts aim to ease cash flow pressures on affected borrowers and allow them to continue serving customers and paying employees and suppliers, improve their capacity to service debt, and facilitate the bank's ability to collect on its credit facilities.
- 2. Private Sector Job Retention Scheme - PSJRC** SAMA requires banks to immediately put in place measures for borrowers to assist in maintaining employment levels for entities affected by COVID-19 and provide concessional bridging loans and other facilities for at least six months so that these employers will be able to access support to continue paying part of their employees' salaries. SAMA requires each bank to immediately come up with the design of such a scheme and notify SAMA.
- 3. Supporting Private Sector Unemployed Retail Clients Due to COVID-19** SAMA requires banks to offer immediate support to all their customers who unfortunately lost their jobs because of the direct or indirect impact of the COVID-19 crisis. Such support should include allowing repayment relief for loans or mortgage at no further costs to these customers for up to six months.
- 4. Measures to Promote Remote Banking** SAMA requires banks to immediately waive all fees and other charges arising from the use of digital channels for all customers for up to six months and to support preventative measures of spreading COVID-19. SAMA also requires waiving of activation fees and charges of new customers subscribing to these digital channels during this period.
- 5. Minimum Balance Requirements** SAMA requires all minimum balance charges for all bank accounts to be waived immediately for a period of up to six months.
- 6. Refinancing and Breakage Costs** SAMA requires banks to immediately cease charging customers any fees for at least six months should they want to refinance their existing facilities or should they want to modify or break an existing contractual agreement (loan or fixed deposit).



Home



Summary



EMEA



AMERICAS



AP

Debt

7. **Credit Card Activities** SAMA requires all banks to immediately review and reassess credit card interest rates and other charges to all current and future customers given the current low interest rates in light of the prevailing economic environment. SAMA expects:
- credit card interest rates to be offered at a reasonable APR rate.
 - SAMA requires banks to immediately refund any bank charges that customers may have incurred in relation to cancelled trips, holidays or foreign currency transaction fees.

Banks are required to immediately implement these requirements and provide SAMA with the measures they have put in place to ensure implementation. Banks are also required to immediately publish these relief measures offered to their customers on all their communication channels.

Further information on the measures is available on the SAMA website:

<http://www.sama.gov.sa/en-US/News/Pages/news-514.aspx>

Equity

No (semi-) equity support measures have been announced.

Taxation



To read more about this topic, please see this alert: [Saudi Arabia triples VAT rate to 15%](#)



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions



None. The President recently signed the Competition Amendment Act into law which introduces a foreign investment review regime that will affect transactions in terms of which foreign firms seek to acquire businesses or assets that operate in sectors that are designated as strategically important to South Africa's national security interests. In terms of the Amendment Act, the President will establish a committee charged with considering whether mergers involving a foreign acquiring firm have an adverse effect on the national security interests of the Republic. The committee is yet to be appointed and new measures have not been announced in specific response to COVID-19.

Debt

SMME Relief Finance Scheme (loans): this is a ZAR 500 million government-backed debt relief finance scheme which will provide "soft-loan" funding to qualifying Small, Medium and Micro Enterprises (SMMEs) for a period of 6 months, commencing 1 April 2020 (although businesses may apply for a longer period of assistance if required). The objective of the Debt Relief Fund is to provide relief for qualifying SMMEs for their existing debts and payments and to assist these qualifying SMMEs to continue with the acquisition of raw materials and payment of both labour and operational costs during the COVID-19 pandemic.

Business Growth and Resilience Facility (loan): this is a ZAR 3 billion facility made available by the Industrial Development Corporation together with the Department of Trade, Industry and Competition which seeks to enable continued participation of SMMEs in supply value-chains, in particular those who manufacture (locally) or supply various products that are in demand, emanating from the current shortages due to COVID-19 pandemic.

The Spaza Shop Support Scheme (loans): this is a government facility which was established to provide seed capital and other necessary business tools to shop owners in order to allow them to continue to provide essential goods during and after the lock-down in South Africa in response to the COVID-19 crisis. The scheme benefits general dealers and traditional grocery stores in townships and villages with applicable licenses.

NEF Fund: The National Empowerment Fund in partnership with the Department of Trade, Industry and Competition has set aside ZAR 200 million for the Black Business Fund as a blended facility for black-owned SMMEs that manufacture and supply various medical supplies and engage in food production to be used for the purpose of purchasing machinery, equipment and raw materials and to fund other working capital requirements. ZAR 500,000 to ZAR 10 million per applicant can be made available for working capital, machinery or equipment related costs. These facilities will be provided with a payment holiday for the first 12 months.



Home



Summary



EMEA



AMERICAS



AP

Debt

The Industrial Development Corporation (IDC) Distressed Funding: The IDC is offering assistance to companies in distress as a result of the COVID-19 pandemic in certain business sectors, namely agriculture, pharmaceuticals, specialty chemicals, clothing and textiles, heavy manufacturing, light manufacturing, media and audio-visuals, new industries, tourism, automotive transport and equipment, industrial infrastructure and basic metals and mining. Funding is available to existing IDC clients and new clients in distress as a result of COVID-19 only (and not as a result of mismanagement).

IDC COVID-19 Essential Supplies Intervention: designed to provide funding to companies that has the capacity to acquire and/or manufacture products needed to treat, curtail and combat the spread of the COVID-19 pandemic. The financial instruments available include: short-term loan for once-off contract or import funding; revolving credit facility; guarantees to banks for banking facilities, imports and ordering requirements. ZAR 800 million has been allocated towards this fund.

National Credit Guarantee: the National Treasury has provided a guarantee of R100 billion to this scheme, with the option to increase the guarantee to R200 billion if necessary and if the scheme is deemed successful. The loan guarantee scheme is an initiative to provide loans, guaranteed by government, to businesses with an annual turnover of less than R300 million to meet some of their operational expenses.

Sefa-Debt Restructuring Facility: Small businesses funded by the Small Enterprise Finance Agency (Sefa) will be given a payment holiday for the next six months to reduce the instalment burden of loan obligations on clients during the COVID-19 period.

Restructuring Capital Allowance for Banks: The Prudential Authority (the prudential regulatory arm of the South African Reserve Bank) has amended Directive 7 of 2015 issued under the Banks Act, 1990 such that loans that are restructured as a result of the impact of COVID-19 pandemic will not attract a higher capital charge. This amendment covers loans to households, small and medium sized businesses, corporates and specialised lending. This is intended to allow (but not compel) commercial banks to grant voluntary moratoria and debt restructuring to their clients.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is state support for distressed business available?

A number of government-backed and private debt relief finance schemes have been introduced in response to the COVID-19 pandemic, particularly to assist Small, Medium and Micro Enterprises (SMMEs) in South Africa. Distressed businesses are being provided support by way of loans, grants and/or tax relief. This is discussed briefly below:

The Department of Small Business Development has introduced three initiatives to assist SMMEs during the COVID-19 crisis, namely:

1. **Debt relief fund** — The fund is to provide "soft-loan" funding to qualifying SMMEs for a period of six months, commencing 1 April 2020. The objective is to provide relief for qualifying SMMEs for their existing debts and payments and to assist these qualifying SMMEs to continue with the acquisition of raw materials and payment of both labor and operational costs during the COVID-19 pandemic.
2. **Business growth/Resilience facility** — This facility seeks to enable continued participation of SMMEs in supply value-chains, in particular those who manufacture (locally) or supply various products that are in demand, emanating from the current shortages due to COVID-19 pandemic. This facility offers working capital, stock, bridging finance, order finance and equipment finance.
3. **The spaza shop support scheme** — This has been established to provide seed capital and other necessary business tools to shop owners in order to allow them to continue to provide essential goods during and after the lock-down in South Africa in response to the COVID-19 crisis. This includes support in the form of loans. Further government supported debt relief initiatives that have been introduced in response to the COVID-19 crisis include the following:
4. **NEF COVID-19 fund** — This is a ZAR 200 million fund established by the national empowerment fund together with the Department of Trade and Industry to provide ZAR 500,000 to ZAR 10 million concessionary loans for black-owned businesses to purchase machinery, equipment and raw materials and to fund other working capital requirements for the manufacture and supply of medical masks, sanitizers, dispensers and related healthcare products. Businesses that benefit under the NEF COVID-19 fund will be receive a 12 month repayment holiday to help stabilize businesses. The loans will be offered at 0% interest for the first year and thereafter at 2.5% per annum and the loans will be repayable over a maximum term of 60 months.
5. The Industrial Development Corporation has provided a ZAR 3 billion relief facility for industrial funding. The facility is directed towards vulnerable South African-owned businesses and aims to extract funding for companies critical to fighting the virus and its economic impact. ZAR 500 million will be allocated towards trade finance to import essential medical products and ZAR 700 million facility will be allocated for working capital, equipment and machinery.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



6. Temporary employer-employee relief scheme — The scheme allows employers that made contributions to the unemployment insurance fund and who have since lost income as a result of temporary closure of that employer's business due to the COVID-19 pandemic, to access special unemployment benefits for the period of the national disaster by allowing employers to claim partial payment of salaries from the unemployment insurance fund on behalf of its employees.

In addition to the general schemes above, there are a number of industry specific initiatives, for example aimed at businesses in tourism or agricultural sectors. Further to state assistance, a number of private initiatives in response to the COVID-19 pandemic have also been introduced to assist SMMEs with concessionary loans including the South African Future Trust and the Sukuma Relief Program.

Tax relief:

A **draft** Disaster Management Tax Relief Bill is currently under consideration which will contemplate, among others:

- **Employment tax incentive** — whereby the government would provide a monthly tax subsidy over the next four months.
- **Deferral of employees tax payment** — this would allow SMMEs to defer 20% of their employee tax liability (the other 80% is expected to be paid) for the next four months without any penalties.
- **Deferral of provisional tax liability** — this would allow SMMEs to defer a portion of their provisional tax payments without incurring penalties or interest for a period of 12 months from 1 April 2020 to 31 March 2021.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

- The Prudential Authority (the prudential regulatory arm of the South African Reserve Bank) has amended Directive 7 of 2015 issued under the Banks Act, 1990, such that loans that are restructured as a result of the impact of the COVID-19 pandemic will not attract a higher capital charge. This amendment covers loans to households, small and medium sized businesses, corporates and specialized lending.
- The Companies and Intellectual Property Commission (CIPC) issued a directive that states that it will not invoke its powers under section 22 of the Companies Act, 2008 (in terms of which the CIPC issues compliance notices to businesses believed to be carrying on activity recklessly, with gross negligence or with a fraudulent purpose) where a company is temporarily insolvent and still carrying on business or trading (if business conditions are related to the COVID-19 pandemic). This relief is expected to last up to 60 days after the declaration that the national state of disaster has been lifted.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



- "Payment holidays:"
 - A number of private banks (with the support of government but no obligation on any bank) have offered "payment holidays" to individuals and businesses that are impacted by the COVID-19 pandemic.
 - The **SEFA-Debt Restructuring Facility** was established by the Small Enterprise Finance Agency to provide a payment moratorium/holiday for a maximum period of six months to qualifying SEFA-funded SMMEs that are negatively affected by the COVID-19 pandemic in order to reduce the instalment burden of loan obligations on the affected SEFA-SMMEs
- Various exemptions to the Competition Act have been granted for the benefit of businesses providing essential services during lockdown and relating to COVID 19 relief efforts.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

No announcements regarding any reform of the insolvency regime had been made at the time of writing.

Taxation

Corporate income tax

Deferral of payment of provisional tax liability for compliant small to medium sized businesses

Government proposes the following tax measures for tax compliant small to medium sized businesses, for a period of twelve months, beginning 1 April 2020 and ending on 31 March 2021:

Deferral of a portion of the payment of the first and second provisional tax liability to SARS, without SARS imposing administrative penalties and interest for the late payment of the deferred amount;

The first provisional tax payment due from 1 April 2020 to 30 September 2020 will be based on 15 percent of the estimated total tax liability, while the second provisional tax payment from 1 April 2020 to 31 March 2021 will be based on 65 percent of the estimated total tax liability; and

Provisional taxpayers with deferred payments will be required to pay the full tax liability when making the third provisional tax payment in order to avoid interest charges.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Social security / Employment / Wage taxes / Personal Income Tax

Employment Tax Incentive

The ETI programme makes provision for the employer to claim the ETI in respect of a qualifying employee:

Who is between the ages of 18 and 29; and

Has a monthly remuneration of less than ZAR 6,500.

The maximum monthly ETI claimable per qualifying employee is limited to ZAR 1000 in the first year of employment and ZAR 500 in the second year of employment. Further to the above, the monthly ETI can only be claimed for the first 24 months of the qualifying employee's employment by an employer or associated institutions.

To minimise the loss of jobs during this critical period, Government proposes expanding the ETI programme for a limited period of four months, beginning 1 April 2020 and ending on 31 July 2020 as follows:

- First, increasing the maximum amount of ETI claimable during this four-month period for employees eligible under the current ETI Act from ZAR 1,000 to ZAR 1,500 in the first qualifying twelve months and from ZAR 500 to ZAR 1,000 in the second twelve qualifying months.
- Second, allowing a monthly ETI claim in the amount of ZAR 500 during this four-month period for employees from the ages of:
 - > 8 to 29 who are no longer eligible for the ETI as the employer has claimed ETI in respect of those employees for 24 months; and
 - > 30 to 65 who are not eligible for the ETI due to their age.
- Third, accelerating the payment of employment tax incentive reimbursements from twice a year to monthly as a means of getting cash into the hands of tax compliant employers as soon as possible.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Deferral of Employees' Tax Liability for tax compliant small to medium sized businesses

Government proposes the following tax measures for tax compliant small to medium sized businesses, for a limited period of four months, beginning 1 April 2020 and ending on 31 July 2020:

- Deferral of payment of 20 per cent of the PAYE liability, without SARS imposing administrative penalties and interest for the late payment thereof.
- The deferred PAYE liability must be paid to SARS in equal instalments over the six month period commencing on 1 August 2020, i.e., the first payment must be made on 7 September 2020.

For the purposes of this proposal, small or medium sized business is defined to mean any business with an annual turnover not exceeding ZAR 50 million.

VAT

Goods qualifying for import VAT exemption under item 412.11 – COVID-19 measures:

"[E]ssential goods" as defined in R.398 in Government Gazette No. 43148 of 25 March 2020 (or then COVID-19 Regs) are, with a few exceptions, exempt from VAT on importation under item 412.11/00.00/01.00 to Schedule 1 of the Value-Added Tax Act, 1991, read with section 13(3) of that Act.

Excise / Import duties

Excise

SARS has published a streamlined temporary registration process for traders to register as rebate users in the manufacturing of disinfectants for the duration of the national state of disaster.

COVID-19 Export Control Regulation

On 2 April 2020, SARS has been requested by the Department of Trade and Industry to add the listed goods to its prohibited and restricted list (P&R list) for purposes of export control. It is not a ban. Traders may apply to the International Trade Administration Commission (ITAC) for an export permit, and if granted the goods may be exported. See Notice R.424 (link) for more information.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Customs practice note - Transportation of cargo (COVID-19)

Customs has clarified an amendment to the regulations published on 2 April 2020 aimed at easing escalating port congestion by providing for the "transportation of cargo from ports of entry to their intended destination, on condition that necessary precautions have been taken to sanitise and disinfect such cargo." For more info, see the Customs Practice Note (link).

Goods qualifying for a full rebate of customs duty and import VAT exemption under 412.11 – COVID-19 measures

Importation of supplies critical to the national state of disaster necessitated by the COVID-19 pandemic can be done free of duty and VAT into South Africa. Importers are required to apply to ITAC for a certificate to use that qualifies them to import under rebate item 412.11.

Qualifying products referred to as "critical supplies" are listed on the ITAC website, as is the application form and the SOP.

Processing of Rules of Origin certificates during lockdown

Customs clients submitting Certificates of origin, including: Form A, EUR1, SADC, MERCOSUR and AGOA, will continue to do so at their local branch as per communiqué dated 26 March 2020 (using an appointment process). However, clients in Durban and Cape Town are advised that Certificates of origin will only be processed during the lockdown period on the following days: Monday, Wednesday and Friday.

Other taxes

N/A

Comments

N/A



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals

A **first measure** consisting of **three guarantee schemes** (total budget up to EUR 20 billion) for new loans and refinancing for companies and self-employed workers. The schemes limit State exposure to 80% for self-employed workers and SMEs and 70% for larger enterprises, 60% for refinancing (24 March)

A **second measure** consisting of an **"umbrella" scheme**, which allows the Spanish authorities to provide liquidity support to self-employed, SMEs and large companies, in the form of direct grants, repayable advances, tax and payment advantages (all with a maximum aid amount of EUR 800,000) guarantees on loans and subsidised interest rates for loans in line with the conditions of the Temporary Framework (2 April)

A **third measure** consisting of the **second Spanish "umbrella" scheme** enabling Spain to give support for the research and development, the testing and the production of coronavirus relevant products. It also includes wage subsidies and deferrals of tax and social security contributions, helping companies maintain employment. (24 April)

Foreign Investment Restrictions

By virtue of Royal Decree-Law 8/2020 and Royal Decree-Law 11/2020, which, amongst others, amend Law 19/2003, of 4 July, on the legal regime for capital movements and economic transactions abroad, the Spanish Government has suspended the liberalized regime of foreign investment. They have introduced the requirement to obtain an ex-ante approval for certain foreign direct and indirect investments by non-EU and non-EFTA residents. Such suspension of the liberalized regime will be effective until the Spanish Government decides to withdraw it.

The requirement to obtain ex-ante approval affects both (a) foreign investments carried out by non-EU and non-EFTA residents and (b) foreign investments made by EU and EFTA residents whose ultimate beneficial owners are non-EU or non-EFTA residents. "Ultimate beneficial owners" shall be understood as individuals or entities who are in control of more than 25% of the share capital or of the voting rights of the investor, or whenever they are able to exercise control over the same –"control" as defined in art. 42 of the Spanish Code of Commerce, that is, whenever those individuals/entities have the majority of the voting rights of the investor, can appoint or remove the majority of the members of the management body or can be in possession of the majority of the voting rights of the investor by virtue of agreements with third parties.

The obligation to obtain ex-ante approval affects foreign investments (as defined above) carried out in Spanish companies when, as a result of such investment, the foreign investor would either (i) hold a stake equal or greater than 10% of the share capital of the Spanish company, (ii) acquire the right to participate in the management of or (iii) acquire control of a Spanish company (as defined in art. 42 of the Spanish Code of Commerce).



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

Such investments will be subject to an ex-ante authorization:

- I. Where the foreign investment is carried out in sectors that may affect the public order, the public security and the public health, namely:
 - i. Energy, transport, water, health, communications, media, data processing or storage, aerospace, defence, electoral or financial infrastructure and sensitive facilities;
 - ii. Critical technologies and dual-use items, including artificial intelligence, robotics, semiconductors, cyber-security, aerospace, defence, energy storage, quantum and nuclear technologies, as well as nanotechnologies and biotechnologies;
 - iii. Supply of key inputs, in particular energy, raw materials and food security;
 - iv. Sectors with access to sensitive information, in particular personal data, or with the ability to control such information; and
 - v. Media.

In any event, the Spanish government reserves itself the right to suspend the liberalization regime of foreign direct investments in sectors other than those specifically mentioned above, if they are capable of affecting the public security, the public order and the public health.

- II. Where:
 - i. the foreign investor is directly or indirectly controlled by the government, including public bodies or the armed forces, of a third country; or
 - ii. the foreign investor has made investments or participated in business sectors affecting security, public order and public health in another Member State; or (c) proceedings, either administrative or judicial, have been opened against the foreign investor in another Member State or in the home State or in a third State for criminal or illegal activities.

The investments described above are subject to the prior administrative authorization granted by the Council of Ministers in accordance with the conditions established by the competent administrative authority (i.e., the regulator of the affected strategic sector). Failure to obtain authorization within six (6) months will be deemed as a rejection.

However, the following foreign investments requests will be processed through a simplified procedure, which entails a maximum deadline of 30 days for the authority to grant or deny the authorization: Investments in connection to which the parties can provide evidence that they had reach an agreement or made a binding offer prior to 18 March 2020, in which they had fixed the price or the price calculation method; or If the transaction concerned has a value ranging between €1,000,000 and €5,000,000.



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

Under the simplified procedure, applications must be submitted to the Directorate General for International Trade and Investments, which shall decide whether to grant or reject the authorization following a prior report issued by the Board of Foreign Investment.

Foreign investments below € 1,000,000 are exempted from the requirement to obtain a prior authorization.

Any foreign investment executed without the required prior authorization shall have no legal effect until the necessary authorization is obtained and may constitute a serious infringement that may trigger the following penalties: a fine up to the economic value of the transaction with a minimum amount of €30,000 and (ii) a private or public reprimand.

Debt

The Spanish government has implemented urgent financial measures (Royal Decree Law 7/2020 and 8/2020) to support affected businesses, particularly in the tourism sector and in respect of SMEs and to guarantee the liquidity and stability of companies. The Laws contemplate, among other things:

- a credit line of EUR 400 million to help companies and self-employed workers in the tourism sector and a credit line for financing by financial institutions to companies and the self-employed; and
- the creation of a line of insurance coverage of up to EUR 2 billion from the Risk Reserve Fund for Internationalisation for companies, especially SMEs and self-employed workers.

Exclusions

- Credit line for companies and self-employed: Conditions established by Council of Ministers.
- Insurance coverage: Will last six months from the entry into force of Royal Decree Law 8/2020, to cover revolving loans to Spanish exporters considered as SMEs, as well as other non-listed companies, provided that they operate internationally or are in the process of becoming international and face a liquidity problem or lack of access to finance as a result of the impact of the COVID-19 crisis on their economic activity.



To read more about this topic, please see this alert: [Royal Decree-Law 19/2020, dated 26 May, which passed complementary agricultural, scientific, employment, social security and tax measures to mitigate the effects of COVID-19](#)



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is state support for distressed business available?

Yes, the Spanish government has implemented certain urgent financial measures to support the affected businesses, particularly in the tourism sector and in respect of small and medium-sized enterprises (SMEs), and to guarantee the liquidity and stability of companies.

These measures, as contemplated by Royal Decree Law 7/2020, of 12 March 2020, which adopts urgent measures to respond to the economic impact of COVID-19 ("**Royal Decree Law 7/2020**"), are:

- A credit line from the Institutional Credit Institute (ICO) for EUR 400 million to meet the liquidity needs of companies and self-employed workers in the tourism sector, as well as related activities that are being affected by the current situation. This credit line reinforces and extends the credit line initially planned for those affected by the insolvency of the Thomas Cook business group to those affected by the crisis triggered by COVID-19, so that it is made available to all companies and the self-employed with registered offices in Spain in the tourism and related sectors.
- The right of SMEs that received loans from the General Secretariat for Industry and Small and Medium-sized Enterprises (Secretaría General de Industria y de la Pequeña y Mediana Empresa) to defer repayment of principal and/or interest on the current annual instalment, provided that the due date falls within less than six months from the entry into force of Royal Decree Law 7/2020, and provided that the health crisis caused by COVID-19 has led to periods of inactivity, reduction in the volume of sales or supply disruptions in the value chain that would render it difficult or impossible to meet such payments. Furthermore, Royal Decree Law 8/2020, of 17 March 2020, on extraordinary measures to face the economic and social impact derived from COVID-19 ("**Royal Decree Law 8/2020**") contemplates the following additional measures:
- The approval of a credit line backed by the Spanish state for financing to be granted by financial institutions to companies and the self-employed ("**Line of Guarantees**"). This Line of Guarantees consists of the granting of guarantees by the Ministry of Economy and Digital Transformation to back financing to be granted by credit institutions, financial credit establishments, electronic money institutions and payment institutions to companies and the self-employed to meet their needs arising, among other things, from managing invoices, revolving capital requirements, maturities of financial or tax obligations or other liquidity needs up to a maximum of EUR 100 billion (divided into four tranches to be consecutively approved):



Home



Summary



EMEA



AMERICAS



AP

Insolvency



- i. The first tranche was approved on 24 March 2020 for a maximum amount of EUR 20 billion, which will apply to companies and the self-employed (with a corporate address in Spain) affected by the economic effects of COVID-19, provided that they were not in default on 31 December 2019 nor under insolvency proceedings as of 17 March 2020. The Line of Guarantees may cover both new loans and renewals of existing loans, provided that they are requested before 30 September 2020 and in relation to loans executed or renewed after 17 March 2020, and will amount up to (i) 80% of new loans and renewals requested by SMEs and the self-employed, and 70% of new loans and 60% of renewals requested by companies (i.e., other than SMEs and the self-employed). The term of the loan guarantee will match the term of the relevant guaranteed loan, up to a maximum of five years. There is a maximum loan amount per client depending on whether the loan exceeds the amount of EUR 1.5 million or not. In summary, for loans up to EUR 1.5 million, the maximum amount of the guaranteed loan/refinancing operation by a client is EUR 1.5 million; and for loans above EUR 1.5 million, up to the maximum provided for in the European Commission's Temporary Framework for State Aid for both the self-employed and companies. The application for the financing will be made directly before the relevant financial entity, which will decide on the granting of the relevant financing to the client in accordance with its internal procedures and granting and risks' policies. In particular, and unless other conditions are imposed by the ICO on each entity, the particular conditions (including interest rates) applicable to the loans will, in principle, be determined at the discretion of each financial entity taking into account each client's solvency and risks. The financial cost of the guarantees will be between 20 and 120 basic points, which will be assumed by the relevant financial entity.
- ii. The second tranche was approved on 10 April 2020 for a maximum amount of EUR 20 billion, which will apply only to SMEs and the self-employed (with a corporate address in Spain) affected by the economic effects of COVID-19, provided that they were not in default on 31 December 2019 nor under insolvency proceedings as of 17 March 2020. The terms and conditions set out in the agreement of the Council of Ministers, dated 24 March 2020, in relation to the approval of the first tranche of ICO credit lines, are also applicable to this second tranche, to which certain specific provisions included in the agreement of 10 April 2020 also apply. In particular these provisions are, but not limited to: (i) the eligible new loans and renewals are granted by credit institutions, financial credit establishments, electronic money institutions and payment institutions to SMEs and self-employed workers, provided that such financial entities have adhered to the ICO master agreement by 15 May 2020; (ii) the costs of new loans and renewals that benefit from these guarantees will be in line with the costs applied before the start of the COVID-19 crisis and, in general, they will be lower than the costs of loans and other operations for the same type of client that are not covered by the guarantee; and (iii) under no circumstances are the financial entities entitled to make the granting of a guaranteed loan conditional on the customer taking out other products.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



- The increase of ICO's net debt limit by EUR 10 billion to finance companies, particularly SMEs and the self-employed, will be carried out through ICO's lines of financing through intermediation of financial institutions in the short, medium and long term, in accordance with its policy of direct financing for larger companies.
- The creation of a line of insurance coverage of up to EUR 2 billion from the Risk Reserve Fund for Internationalization, in order to provide additional liquidity to companies, especially SMEs and self-employed workers. This line will last for six months from the entry into force of Royal Decree Law 8/2020, to cover revolving loans to Spanish exporters considered as SMEs, as well as other non-listed companies, provided that they operate internationally or are in the process of becoming international and face a liquidity problem or lack of access to finance as a result of the impact of the COVID-19 crisis on their economic activity. Coverage will be provided by Compañía Española de Seguros de Crédito a la Exportación S.A. Cía. de Seguros y Reaseguros (CESCE), S.M.E. in its own name and on behalf of the Spanish state.
- Financial support measures for SME digitalization. The state will financially support, through ICO financing for SMEs, the purchase and leasing of equipment and services for the digitalization of SMEs and telework solutions, mobilizing in the next two years more than EUR 200 million.
Likewise, Royal Decree Law 11/2020, of 31 March 2020, adopting additional urgent measures in the areas of employment and economics to deal with the COVID-19 crisis ("Royal Decree Law 11/2020") contemplates additional financial support measures, which are summarized below:
 - Refinancing of loans granted by the General Secretariat for Industry and Small and Medium-sized Enterprises (Secretaría General de Industria y de la Pequeña y Mediana Empresa) for a period of two-and-a-half years (extendable by the resolution of the Council of Ministers) as from the date Royal Decree 463/2020 of 14 March 2020 entered into force, provided that the health crisis caused by COVID-19 has led to periods of business inactivity for the beneficiary; reduction of its sales; or supply interruptions in the value chain.
Changes to the repayment schedule may consist of: a) increasing the maximum repayment term; b) increasing the maximum grace period, if any principal has not yet fallen due; or c) other amendments, provided that they respect the same maximum levels of aid and risk that existed at the time the loans were granted.
- The increase by EUR 60 million of the COVID-19 guarantee line pertaining to the Compañía Española de Reafianzamiento, SA (CERSA) Technical Provisions Fund (CERSA is the Spanish refinancing company) in order to provide for extraordinary credit risk coverage for the financing of operations of SMEs affected by the COVID-19 crisis.

Accordingly, CERSA will be able to assume approximately EUR 1 billion of risk, which will allow the mobilization of EUR 2 billion for the benefit of 20,000 SMEs and self-employed workers.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



- The suspension, for a one-year period and without the need for prior application in relation thereto, of the repayment of capital and interest rising from loans that were granted by the Secretariat of State for Tourism (within the framework of the Emprendetur R+D+i Program, the Emprendetur Young Entrepreneurs Program and the Emprendetur Internationalization Program).
These payments are due on the same date of the following year in which the loan was granted, without this implying the accrual of additional interest.
- The right of companies and self-employed workers who are borrowers of loans granted by an autonomous community or local institution/township to defer repayment of the principal and/or interest due, for the remainder of 2020, provided that the health crisis caused by COVID-19, or the measures adopted to mitigate it, have led to periods of business inactivity, significant reductions in the volume of sales, or supply interruptions in the value chain, which make it difficult or impossible for them to meet the payment obligations related thereto.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Deferral of payments/payment moratoriums:

In addition to the deferral/suspension of payments provided in relation to the loans granted by the General Secretariat for Industry and Small and Medium-sized Enterprises (*Secretaría General de Industria y de la Pequeña y Mediana Empresa*), the Secretariat of State for Tourism or an autonomous community or local institution/township, as indicated in the question above, payment moratoriums have been implemented in Spain in relation to non-mortgage and mortgage debt, and rental debt, each and all applicable to natural persons/individuals, either employed or self-employed, provided that they are under an "economically vulnerable situation" (as this term is defined under the COVID-19 related Spanish regulation) due to the COVID-19 outbreak:

- Moratorium on non-mortgage loans (including consumer credit)

During the moratorium period (i.e., three months from the debtor's request for suspension to the creditor, accompanied by the required documentation, so that the "economically vulnerable situation" of the debtor is accredited, extendable if the Council of Ministers agrees to do so), the creditor will not be entitled to demand payment of principal or interest, either in full or in part, and neither ordinary interest nor default interest will be accrued during such period.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



- Moratorium on mortgage loans for the acquisition of:
 - i. main residence
 - ii. property intended for the economic activity/business of entrepreneurs and professionals (i.e., individuals who meet the conditions set out in Article 5 of the VAT Act)
 - iii. dwellings (other than the main residence) that are rented out and in respect of which the mortgagor (the natural person who is the owner and lessor of said dwellings) has ceased to receive rental income due to the entry into force of the state of emergency or has ceased to receive it in a period of up to one month after the state of emergency ends.

During the moratorium period (i.e., three months since the creditor grants such a suspension, which will be granted within a maximum period of 15 days from the debtor's request for suspension, accompanied by the required documentation so that the "economically vulnerable situation" of the debtor is accredited), which can be extended if the Council of Ministers agrees to do so, the creditor will not be entitled to demand payment of principal or interest under the loan or to accelerate or enforce the loan. Likewise, the debt will not accrue either ordinary interest or default interest during such period.

- Moratorium on rental debt under lease agreements for main residence (with different alternatives depending on the landlord characteristics (i.e., in case it is a major landlord or a small landlord)).

In relation to the lease agreements for a main residence, please note that an extraordinary extension thereof for a maximum period of six months has also been provided.

Filing for insolvency:

During the state of emergency, debtors in a state of insolvency will not have the obligation to file for insolvency and those filings made by creditors will not be accepted until two months after the end of the state of emergency. In particular, the debtor's filing for insolvency will have preference over any filing made by creditors during the state of emergency.

Also, during the state of emergency, debtors who have submitted a notice to the court under Article 5-bis of the Spanish Insolvency Act are not obliged to file for insolvency even though the mandatory period for doing so elapses during the state of emergency.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Contractual default:

In case of default by any of the parties to a contract, the defaulting party may argue that the relevant breach has taken place because of the COVID-19 situation and invoke force majeure or rebus sic stantibus grounds in order to consider that no such breach exists. Court decisions will be taken on a case-by-case basis.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

There is no actual project to amend the Insolvency Act as a result of the COVID-19 situation.

However, there is a draft reform in place (*Texto Refundido de la Ley Concursal*). It is still uncertain when this draft will be passed.

Equity

No (semi-) equity measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation



Corporate income tax

New special rules will be applicable for the submission of Corporate Income Tax return of FY19. The filing deadline for this tax has not changed. However, a second self-assessment may be submitted up to 30 November if the tax return based on the annual accounts approved by the corporate body is different from the tax return that was originally filed on the basis of the available annual accounts.

Extraordinary option to pay the tax base for Corporation Tax in instalments: for those taxpayers with a net turnover of less than 6 million euros in the 12 months prior to the start of the fiscal year commencing on 1 January 2020 (and who did not opt for the tax base method) may opt for the tax base method provided for in Article 40.3 of the Corporate Income Tax Act within the first 20 calendar days of October by making the instalment payment in due time (i.e. it must be paid on time for their choice to be valid). This option would not apply to tax groups.

Social Security/ Employment / Wage Taxes / Personal Income Tax

New situations in which pension plans may be redeemed: from 2 April 2020 to 2 October 2020 (such period can be extended), participants of pension plans and insured persons of assured saving plans, company saving plans and social benefit mutual entities may dispose of their accumulated savings, if they have been affected by Covid-19 (unemployed workers, owners of closed establishments and self-employed workers who have ceased their activity or, while still in business, have reduced their turnover by at least 75%).

Personal income tax: For fiscal year 2020, the donations made to entities regulated under Law 49/2020 may benefit from an increase of 5% of the tax credit foreseen.

VAT

0% VAT rate applicable to supplies, imports and intra-Community acquisitions of goods that are needed to deal with the effects of the COVID-19.

VAT on electronic books, newspapers and magazines is reduced to 4%. VAT taxation on like publications, be they supplied in a hard-copy or electronic format, is now the same.

VAT and excise duties on electricity, natural gas and fuel invoices. Invoices for which payment has been suspended under RDL 11/2020 are exempt from paying VAT and excise duties until the consumer has paid them in full, or six months have elapsed since the end of the State of Emergency.



Home



Summary



EMEA



AMERICAS



AP

Taxation



Excise / Import duties

Deferment of certain custom taxes. For custom tax returns filed between 2 April and 30 May 2020 (both included), a request for deferment may be made, provided that the importer is a SME (turnover not exceeding EUR 6,010,121.04 in 2019) and debt does not exceed EUR 30,000 and is more than EUR 100. This deferral shall be for six months, with no default interest for the first three months.

Other taxes

- Digital Service Tax: A bill is under consideration in parliamentary process of approval.
- Local taxes such as real state tax (IBI) or business activity (IAE) could benefit from deferments or tax reliefs depending on the regulation approved by each town or city.
- In relation to national and provincial payments of business activity tax, a new payment period has been approved from 16 September to 20 November.
- Other regional taxes deferments or tax relief also depends on the regulation approved by each Autonomous Region.

Comments

- Deferred tax payments for debts arising from tax returns and self-assessments (excluding customs debts): It includes a deferral of all tax returns and self-assessments whose filing and payments dates fall between 13 March 2020 and 30 May 2020 (both inclusive). The term for the deferral is 6 months and no interest shall accrue during the first four months. Such tax measure can be applied by any company with a turnover that in FY19 is less than 6,010,121.04 euros.
- Suspension of administrative jurisdiction deadlines (including tax claims) from 14 March to 1 June. Notwithstanding the foregoing, given the large number of cases and subject matter, we recommend reviewing matters on a case-to-case basis, to know exactly how long each period will last.
- Suspension of limitation and expiration periods: limitation and expiration periods for any actions or rights shall be suspended from 14 March to 4 June.
- Deadlines for the execution of Economic-Administrative Courts decisions: the period between 14 March and 30 May shall not count towards the maximum duration of the execution period of tax courts decisions.



Home



Summary



EMEA



AMERICAS



AP

Taxation



- Suspension of procedural deadlines from March 14th to June 4th. Notwithstanding the foregoing, given the large number of cases and subject matter, we recommend reviewing matters on a case-to-case basis, to know exactly how long each period will last.
- The enforcement period for certain tax debts will not yet commence (case of granting financing with coverage provided by the State).
- Restrictions on dividend distribution and measures regarding tax transparency. This measures restrict or prevent companies from accessing the benefits linked to the COVID19-force-majeure ERTes (temporary redundancy procedures).
 - Companies and entities whose tax domicile is in countries or territories classified as tax havens under current regulations will not be eligible to file for COVID19- force-majeure ERTes.
 - Companies or other legal persons that use the public resources allocated to COVID19-force-majeure ERTes may not distribute dividends for the fiscal year in which said temporary redundancy procedures are applied. The distribution of dividends will only be possible if the companies previously pay the amount that was exempted from their social security.



To read more about this topic, please see this alert: [Royal Decree-Law 19/2020, dated 26 May, which passed complementary agricultural, scientific, employment, social security and tax measures to mitigate the effects of COVID-19](#)



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals

A **first guarantee scheme** with a total budget of EUR 9.1 billion to provide State guarantees on new loans granted by commercial banks to support companies, mainly small and medium-sized enterprises (SMEs), affected by the coronavirus outbreak (2 April).

A **second loan guarantee scheme for airlines** with a Swedish license that are important to secure connectivity in Sweden aimed at providing sufficient liquidity to ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability and to preserve the continuity of economic activity during and after the current crisis.

The total estimated budget is EUR 455 million (11 April).

A **third scheme** providing for **rent rebate** in support of tenants operating in the sectors for hotels, restaurants, retail and certain other activities.

The total estimated budget is EUR 453 million (15 April).

A **fourth measure** in the form of **direct grants** to organisers of or operators active at cultural events. The measure will compensate for 75% of the loss of revenue or additional costs up to approx. EUR 90 600 and 50% of loss of revenue or additional costs over EUR 90 600, subject to available funds. Aid to an organiser or other operator may be granted up to a maximum amount of approx. EUR 906 000.

Total budget estimated at EUR 38 million (22 April)

A **fifth measure** consisting of a **State guarantee** of up to approximately EUR 137 million on a revolving credit facility in favour of Scandinavian airline SAS (24 April)



To read more about this topic, please see this alert: [Sweden and the EU: Competition law, public procurement and state aid in the wake of COVID-19](#)

Foreign Investment Restrictions



No new measures have been announced in specific response to COVID-19.

However, the Committee on Foreign Affairs has submitted a proposal to the Parliament in which it urges the Parliament to encourage the Government to, as soon as possible, implement measures to review foreign direct investments in Sweden. The committee expects the Parliament to take a decision on the proposal on 16 June 2020.



Home



Summary



EMEA



AMERICAS



AP

Debt

The Swedish Government has released several crisis packages to mitigate the economic consequences for companies: A range of measures have been presented to make it easier for Swedish businesses, particularly small- and medium-sized businesses, to access finances. Almi Företags partner received a capital contribution of SEK 3 billion, and was made subject to less strict requirements regarding financing, to increase its lending to small- and medium-sized businesses throughout the country. The Swedish Export Credit Corporation's credit facility will be increased from SEK 125 billion to SEK 200 billion and can be used to provide both state-supported and commercial credit to Swedish export companies. Furthermore, the Swedish Export Credit Agency will decide on credit guarantees that entail new and improved credit opportunities for businesses.

With an increased credit guarantee ceiling of SEK 500 billion, companies will have improved opportunities to borrow. The state will guarantee 70 percent of new loans from banks, which in turn issue guaranteed loans to companies. It is proposed that each company is allowed to borrow a maximum of SEK 75 million. On 19 March 2020, the Parliament voted in favor of the Government's proposal that the Government has the right to issue credit guarantees of up to SEK 5 billion for loans to airlines, of which SEK 1.5 billion is directed to Scandinavian Airlines. On 16 April 2020, the Government issued an ordinance to support companies in certain sectors (retail, hotels, restaurant etc.) by covering 50 percent of rent reductions up to 50 percent of the fixed rent. Landlords can apply for the support retroactively for the period 1 April – 30 June. The Central Bank has announced that it is loaning up to SEK 500 billion to companies via the banks to safeguard credit supply. The Swedish financial supervisory authority (Sw. *Finansinspektionen*) has announced that it is lowering the countercyclical capital buffer to zero to safeguard a well-functioning credit supply.

Insolvency



Is state support for distressed business available?

Bankruptcy process: Yes. Several general measures are imposed as a crisis package for Swedish businesses, among other things, short-term layoffs, liquidity reinforcement via tax accounts for VAT, employers' and employees' social security contributions, temporary responsibility of the government for sick pay and temporary discount for rental costs in vulnerable sectors.

Company reorganization process: Yes. Several general measures are imposed as a crisis package for Swedish businesses, among other things, short-term layoffs, liquidity reinforcement via tax accounts for VAT, employers' and employees' social security contributions, temporary responsibility of the government for sick pay and temporary discount for rental costs in vulnerable sectors.

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Bankruptcy process: No.

Company reorganization process: No.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Bankruptcy process: No.

Company reorganization process: No.

Equity

On 20 May 2020, the Government proposed to grant a capital contribution of SEK 400 million to the state-owned venture-capital company Almi Invest (a subsidiary of Almi Företagspartner), with the aim that this shall be used to support small innovative companies (such as companies within the life science sector), and in order to make new investments.

Taxation

Corporate income tax

N/A

Social security / Employment / Wage taxes / Personal Income Tax

The Swedish Government has proposed a temporary reduction of employer's social security contributions (only old age pension contributions are to be paid) for 1 March - 30 June 2020. The reduction applies to up to 30 employees per company and on wages not exceeding SEK 25,000 per month. The maximum tax relief per employee and month amounts to SEK 5,300, i.e., if the company has 30 or more employees a total reduction of SEK 159,000 per month may be available.



Home



Summary



EMEA



AMERICAS



AP

Taxation

The government has extended the imposed a possibility of respite to a twelve months respite with payment of employer's fees and preliminary tax withheld from salaries to temporarily strengthen the liquidity of businesses. Up to three reporting periods may be covered by the deferral. The new regulations are proposed to enter into force on 7 April 2020.

For sole traders and partners to partnerships, the proposal includes a possibility to set aside 100 per cent of the taxable profits for 2019 up to SEK 1 million in the tax allocation reserve and hence request repayment of the preliminary tax paid for 2019. The tax allocation reserve can then be off-set against possible future losses. A new preliminary tax return can be filed to lower the monthly preliminary tax levy and repayment of tax paid during 2020 is possible.

VAT

The Swedish government has imposed a possibility of three months respite for payment of VAT. The new regulations are proposed to enter into force on 7 April 2020.

Excise / Import duties

N/A

Other taxes

N/A

Comments

N/A



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

Switzerland is planning to introduce a foreign investment review regime. No measures have been announced in specific response to COVID-19.

Debt



COVID-19 Loans

Federal Level: The Swiss Federal Council has put in place a package of measures including rapid access to bridge loans for SMEs suffering liquidity shortfalls as a result of COVID-19 via application to their relationship banks with the loans being secured by the Swiss Confederation. The conditions are that (i) each bridge loan must not exceed CHF 20 million and 10% of an applicant's annual turnover and (ii) the applicant declares that it is suffering substantial reductions in turnover as a result of the COVID-19 pandemic. Loans of up to CHF 500,000 are fully secured by the Swiss Confederation and bear no interest. Loans exceeding CHF 500,000 are secured by the Swiss Confederation in the amount of 85% of the principal amount plus interest for one year and lending banks may charge interest on the unsecured principal amount. Businesses with a turnover of more than CHF 500 million are not eligible for this program. The credit application form is available on the website

[\(https://covid19.easygov.swiss/\)](https://covid19.easygov.swiss/).

The Swiss Federal Council has set up an additional program for innovative start-ups as most of them were not eligible to participate in the existing program for SMEs. Under this new program, the Swiss Confederation secures 65% and the Cantons secure 35% of the principal amount of each loan. Each Canton will have to decide whether it wants to offer these measures to start-ups located in its jurisdiction. The State Secretariat for Economic Affairs (SECO) has set out the practical criteria for this in consultation with interested Cantons and the surety organizations. Applications for loan sureties can be submitted from 7 May 2020 until 31 August 2020. Some Cantons have already committed substantial financial resources to support start-ups in other ways.

To prevent the abuse of bridge loans, the State Secretariat for Economic Affairs (SECO) has issued a review concept, which seeks to reduce the risk of abuse and to identify errors in the granting of loans. The review concept will be updated and improved on the basis of current developments.

Further support is provided for specific sectors that are particularly affected by the measures of the Swiss Federal Council to combat COVID-19. In particular, the Swiss Confederation may, under certain conditions, make interest-free loans and non-repayable cash contributions to organizations in the sports and in the cultural sector. Loans may also be made to affected businesses in the tourism sector to bridge liquidity shortages.



Home



Summary



EMEA



AMERICAS



AP

Debt



Furthermore, the Swiss Federal Council has decided to support Swiss International Air Lines AG and Edelweiss Air AG by providing a surety for a bridge credit facility of up to CHF 1.5 billion to be made available by Swiss banks. The Swiss Federal Council intends to secure 85% of the outstanding amount under the facility, i.e. up to CHF 1.275 billion. If necessary, the Swiss Federal Council also intends to support flight-related businesses with up to CHF 600 million.

Cantonal Level: In addition to the measures of the Federal Government, the Cantonal governments have announced similar measures to support the economic and cultural sectors, such as making and facilitating loans and providing other financial support in the form of emergency aid.

Insolvency Measures

With effect from 20 April 2020, the Swiss Federal Council has issued an ordinance (the "**Ordinance**"), which includes a temporary suspension from the directors' duty to file for bankruptcy due to over-indebtedness, as well as the introduction of a temporary COVID-19 moratorium. Both measures aim to protect companies, which are experiencing liquidity shortages as a result of the COVID-19 crisis, from the threat of bankruptcy.

Suspension of Directors' Duty to File for Bankruptcy due to Over-Indebtedness

Under Swiss corporate law, if a corporation's board of directors has or should have reason to believe that the company's debts exceed its assets, it is obliged to immediately prepare an interim balance sheet at going concern and at liquidation values and to have it audited by an accredited auditor. The Ordinance provides relief so that no audit is required until 20 October 2020.

If that interim balance sheet shows that the company's debts exceed its assets at going concern as well as at liquidation values, then it is considered over-indebted and its board of directors is required to file for bankruptcy with the competent court, unless one of the following exceptions applies: The first exception is that creditors with claims in an aggregate amount no lower than the amount of the over-indebtedness subordinate their claims against the claims of all other creditors. The second exception is that there is a substantiated likelihood for an informal, i.e. out-of-court financial recovery within a relatively short period of time. As an alternative to filing for bankruptcy, the corporation's board of directors may apply for the opening of composition proceedings, the Swiss version of a court-supervised corporate rehabilitation procedure.

The Ordinance stipulates a suspension of the directors' duty to file for bankruptcy due to over-indebtedness, under the condition that (i) the company was not over-indebted on 31 December 2019 and (ii) there is reasonable prospect for an elimination of the over-indebtedness until the end of 2020. The decision to make use of the suspension must be justified and documented in writing by the board of directors.

The Swiss Federal Council has clarified that the condition of no over-indebtedness on 31 December 2019 is only met if all debt (i.e. including any subordinated debt) is taken into account. In order to meet the condition that there be reasonable prospect for an elimination of the over-indebtedness



Home



Summary



EMEA



AMERICAS



AP

Debt



until the end of 2020, the board of directors must carry out a diligent financial and liquidity planning based on the current circumstances. The suspension of the directors' duty to file for bankruptcy due to over-indebtedness applies until 20 October 2020.

Amendments to the Ordinary Composition Moratorium

As an alternative to a bankruptcy procedure, Swiss law provides for composition proceedings, which intends to establish a basis for the restructuring and thus the turnaround of a distressed company. Composition proceedings entail a composition moratorium. Such moratorium is provisionally granted by the competent court on request, if, inter alia, a provisional restructuring plan is filed and if there is a reasonable prospect for a restructuring of the company.

In the Ordinance, the Swiss Federal Council introduced that for the time being, no provisional restructuring plan has to be provided and that the courts cannot refuse a request for a composition moratorium due to the lack of a prospect for a restructuring. Nevertheless, if there is no prospect for a restructuring, the competent court may initiate bankruptcy proceedings later on.

Once a composition moratorium is granted, the distressed company regularly has four months to confirm that there is a prospect for a restructuring of the company. However, according to the Ordinance, the maximum duration of the provisional composition moratorium is extended to six months.

COVID-19 Debt Moratorium

Besides the amendments to the ordinary composition moratorium, the Swiss Government introduced a so-called COVID-19 debt moratorium. This moratorium provides a temporary stay on payment obligations to enterprises who qualify as SME and were not already over-indebted on 31 December 2019. It is explicitly also available for self-employed business owners.

The COVID-19 debt moratorium will be granted initially for a period of three months and can be extended for further three months on request. The grant of the moratorium and the grant of an extension will be published and must be disclosed by the debtor to all known creditors in writing or by email.

Once the COVID-19 debt moratorium is granted by the competent court, the repayment of any claims against the debtor that have arisen before the moratorium is prohibited, while also no debt collection or seizure measures are available for creditors. However, there are some important exceptions. For example, claims arising under employment agreements (first ranking claims) are excluded from the moratorium.

For stayed claims, there is a freeze on limitation periods for the duration of the moratorium. Conversely, interest obligations are not affected by the moratorium. Furthermore, there is no extraordinary termination right for continuing obligations due to the moratorium and civil as well as administrative procedures will not be suspended.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is state support for distressed business available?

Bankruptcy: If an employer has become insolvent and can no longer pay the outstanding salaries of its employees, the unemployment insurance covers salary claims for work performed under certain conditions. The insurance protection is limited to the last four months of the employment relationship. The unemployment insurance has a recourse against the bankrupt company. Further state support may be available under legislation relating to regional politics.

As a consequence of the COVID-19 pandemic, the Swiss federal and cantonal governments implemented several emergency measures to support businesses impacted by the consequences of the COVID-19 pandemic. As part of these measures, the federal government implemented a loan scheme allowing affected companies to obtain state-backed loans of up to 10% of their turnover (up to a maximum of CHF 20 million) from their respective banks. The scheme provides for two types of state-backed loans, namely (a) loans of up to CHF 500,000 at an interest rate of 0% that are fully guaranteed by the Swiss Confederation, and (b) loans up to CHF 20 million that are guaranteed in an amount of 85% by the Swiss Confederation and subject to a 0.5% interest rate on the guaranteed portion of the loan, it being understood that the credit risk for the remaining 15% is borne by the bank (see also section What is the solvency requirement?).

Composition proceedings: If an employer has become insolvent and can no longer pay the outstanding salaries of its employees, the unemployment insurance covers salary claims for work performed under certain conditions. The insurance protection is limited to the last four months of the employment relationship. The unemployment insurance has a recourse against the bankrupt company. Further state support may be available under legislation relating to regional politics.

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Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Bankruptcy: On 18 March 2020, the Swiss federal government ordered a temporary legal stay regarding the initiation of debt enforcement proceedings (*Rechtsstillstand*). During this legal stay, debtors could not be served any debt collection documents. The standstill applied from 19 March 2020 until 4 April 2020. The statutory debt collection holidays began immediately afterwards. These had the same effects and lasted until 19 April 2020.

On 25 March 2020, the Swiss government implemented emergency measures to support businesses impacted by the consequences of the COVID-19 pandemic. Until 31 March 2022, fully state-backed loans of up to CHF 500,000 granted under these emergency measures will not be considered as a liability for the purpose of calculating the coverage of capital and reserves and for calculating over-indebtedness (see sections **What is the solvency requirement?** and **Is state support for distressed businesses available?**).

Composition proceedings: On 18 March 2020, the Swiss federal government ordered a temporary legal stay regarding the initiation of debt enforcement proceedings (*Rechtsstillstand*). During this legal stay, debtors could not be served any debt collection documents. The standstill applied from 19 March 2020 until 4 April 2020. The statutory debt collection holidays began immediately afterwards. These had the same effects and lasted until 19 April 2020.

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Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Bankruptcy: The Swiss federal government is currently examining further measures to help companies threatened by the economic consequences of the pandemic. In this context, the federal government has proposed to temporarily suspend the obligation to file for bankruptcy in case of overindebtedness (see section **What is the solvency requirement?**) in the event that there is a realistic prospect of eliminating the overindebtedness within six months after the end of the government's emergency COVID-19 measures.

In addition, the government has proposed to temporarily amend some of the provisions dealing with composition proceedings and to introduce a simplified composition procedure for companies affected by the pandemic (see also section **What is the stay/moratorium regime (if any)?**). A public consultation on these proposals was concluded on 3 April 2020. As of 15 April 2020, the government had not yet communicated whether or not and in what form these proposals will be adopted.

Composition proceedings: The Swiss federal government is currently examining further measures to help companies threatened by the economic consequences of the pandemic. In this context, the federal government has proposed to temporarily suspend the obligation to file for bankruptcy in case of overindebtedness (see section **What is the solvency requirement?**) in the event that there is a realistic prospect of eliminating the overindebtedness within six months after the end of the government's emergency COVID-19 measures. In addition, the government has proposed to temporarily amend some of the provisions dealing with composition proceedings and to introduce a simplified composition procedure for companies affected by the pandemic (see also section **What is the stay/moratorium regime (if any)?**). A public consultation on these proposals was concluded on 3 April 2020. As of 15 April 2020, the government had not yet communicated whether or not and in what form these proposals will be adopted.

Equity

No (semi-) equity measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate Income Tax

The Federal Government has de facto suspended interest on arrears for direct federal tax (**profit tax**) for the period from 1 March 2020 to 31 December 2020. In practice, this means that federal tax bills due during this period will be actually deferred without interest despite a formal arrear situation. In order to strengthen the liquidity situation, those affected should check their federal tax bills and suspend payments if necessary. In essence, this results in an interest-free bridge loan. In addition, a tax deferral or payment by instalments can be applied for, not only for final tax bills, but also for provisional tax bills.

At the cantonal level (**profit and capital tax**), some cantons have so far decided to temporarily waive interest on arrears (e.g., Aargau, Basel Country, Berne, Geneva, Glarus, Grisons, Jura, Lucerne, Neuchâtel, Nidwalden, Obwalden, Schaffhausen, Schwyz, Solothurn, Ticino, Vaud, Valais, Zug, Zurich). In addition, individual cantons will temporarily suspend collection of tax debts (e.g., Berne, Lucerne, Zurich). In some cases, it is possible to reduce provisional tax bills. Additionally, in the cantons of Aargau, Thurgau, Valais and Zug companies may create a tax provision in the 2019 financial statements of the profit. However, the tax provisions must be reversed in the 2020 financial statements. In each canton, a tax deferral or payment by instalments can be requested regardless of the specific regulations.

Social Security/Employment/Wage Tax

The **income and wealth tax** of natural persons is subject to the same rules as the profit and capital tax of companies. Besides that, most cantons generally deferred the deadline for filing the 2019 tax return (which would regularly become due on 31 March 2020) by several months, i.e., there is no need to request a formal application for extension for the time being.

VAT

The Federal Government has also suspended interest on arrears for the purposes of **value added tax**, special consumption taxes, steering and customs duties for receivables due from 20 March 2020 to 31 December 2020. If those affected do not pay the corresponding tax invoices or do not pay them in full, this will have no financial consequences. The measure thus creates an interest-free bridge loan.

Excise / Import duties

N/A



Home



Summary



EMEA



AMERICAS



AP

Taxation

Other Taxes

No specific COVID-19 measures have been taken in the area of **withholding tax and stamp duties**. Amounts due should therefore continue to be paid in order to avoid the high default interest rate of 5% in this area.

Comments

The Federal Government and most cantons have now set out temporary measures relating to Swiss tax with the main target to stabilize the liquidity situation of Swiss companies and individuals during the period of disruption caused by COVID-19. This is achieved primarily by uncomplicated granting of short-term aid loans and by tax measures that result in interest-free bridge loans and facilitated tax procedures.

Furthermore, the individual federal and cantonal tax laws contain general hardship provisions, which are currently of great importance despite the special COVID-19 measures described above.

Businesses and individuals should consider practical steps in order to take advantage of the existing measures.

Foreign Investment Restrictions

COVID-19 has not had an impact on foreign investment law. However, to facilitate the foreign investment cases, the competent authority, Investment Commission, has issued a notice on 9 April 2020, allowing the POA that must be notarized, apostilled or legalized overseas for foreign investment applications can be submitted within 6 months of the approval as long as a scanned copy can be filed for review.

Debt

As of 1 May 2020, Turkish banks will be required to calculate their "asset ratio" ("AR") on a weekly basis utilizing the following formula:

$$\text{Asset Ratio (AR)} = [\text{Loans} + (\text{Securities} \times 0.75) + (\text{Central Bank Swaps} \times 0.5)] / [\text{TRY Deposit} + (\text{FX Deposit} \times 1.25)]$$

Going forward, the monthly average AR for the relevant month cannot fall below 100% for deposit banks and 80% for participation banks.

This change is expected to increase the volume of the loans to be made available to the Turkish market.

Insolvency



Is state support for distressed business available?

The Turkish government enacted a law stipulating that no enforcement proceedings will be initiated and no interim attachments will be exercised until 15 June 2020, which may be interpreted as state support for distressed businesses.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Yes. The Turkish government enacted a law stipulating that no enforcement proceedings will be initiated until 15 June 2020, which is a restriction on creditors' actions. The law further stipulates that the composition's normal effects on debtors and creditors will continue during this period without any changes. Therefore, while there are some restrictions on creditors' actions, the distressed companies will still enjoy the composition's effects in favor of them.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

No.

Equity

No (semi-) equity measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

On 6 May 2020 the Ministry of Economy commenced a public consultation in relation to the draft law contemplating a mandatory foreign investment screening procedure with respect to the defense and telecommunication industries. The draft law envisaged a two tier procedure, whereby an applicant would be required to file a notice to the Ministry indicating its interest to make an investment.

After gaining knowledge of the proposed transaction, the Ministry of Economy has to decide whether it would open an impact assessment examination. If so, it would notify the investor accordingly and submit the filing to the Interagency Commission on Foreign Investments to carry out the respective examination. The criteria (and apparently applicable timeline) of assessment are to be defined by the Ukrainian Government upon adoption of this draft law. For now the Ministry of Economy is collecting feedback to the draft text from the interested stakeholders.

Debt



Borrower-friendly restrictions were introduced in relation to consumer loans. The Parliament of Ukraine prohibited not only the increase of interest rates (except for floating rates) under such loans but also the application of negative measures, including fines and penalties, for failure to perform the respective payment obligations between 1 March and the end of the last month of the quarantine period.

The Cabinet of Ministers of Ukraine tailored the existing "5-7-9% affordable loans" program (loans to micro, small and medium businesses at decreased rates partially financed by the state) to address the needs of certain businesses in light of negative impact of the pandemic. Now the "5-7-9% loan" may be obtained specifically to prevent and/or overcome negative consequences of the pandemic and to refinance existing indebtedness before Ukrainian banks. Such loans are provided through the banks approved by the Entrepreneurship Development Fund. The Entrepreneurship Development Fund may support such loans by (i) providing a partial guarantee to secure loan obligations and/or (ii) financing a part of interest payments. The businesses with annual revenues not exceeding UAH100 mln (less than EUR4 mln) can apply for both financing of interest and partial guarantee, provided that the principal amount of a new loan will not exceed UAH3 mln. The refinancing of existing indebtedness may be supported by the compensation of interest payments only and is available for entities with annual revenue up to EUR10 mln. The amount of refinancing is not limited as long as the amount of state support assigned to such refinancing will not exceed EUR200,000. The applicants meeting the established eligibility criteria should apply for the state support within the duration of the quarantine period and 90 days thereafter.

Although no comprehensive scheme aimed at financial support of business suffering from the introduction of restrictive measures has been elaborated by authorities so far, the Parliament of Ukraine introduced a number of further promissive measures, including exemptions from certain tax liabilities and the postponement of deadlines for certain mandatory filings.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is state support for distressed business available?

No specific amendments were introduced into the bankruptcy legislation in light of COVID-19 effect, so far. Specific procedure of restructuring of non-default loans and possibility for the debtors to apply for "payment vacations" were applied as a part of amendments to the banking legislation on 26 March 2020. Payment of certain taxes was suspended (e.g., land tax) and other tax rates were reduced for the period of officially established quarantine. The term of the suretyships securing obligations was prolonged for the term of the quarantine. More new regulations are to follow.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

No specific amendments were introduced into the bankruptcy legislation in light of COVID-19 effect, so far. Specific procedure of restructuring of non-default loans and possibility for the debtors to apply for "payment vacations" were applied as a part of amendments to the banking legislation on 26 March 2020. Payment of certain taxes was suspended (e.g., land tax) and other tax rates were reduced for the period of officially established quarantine. The term of the suretyships securing obligations was prolonged for the term of the quarantine. More new regulations are to follow.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

There is a law initiative on amending the bankruptcy legislation in response to COVID-19 effect. This initiative is being considered by the Ukrainian Parliament but is not yet adopted. The respective draft law suggests prohibiting the commencement of the bankruptcy proceedings in respect of the debtors, whose debt arose after 1 February 2020. It also suggests the possible suspension of auctions on sale of the debtor's assets, suspension for the term of quarantine of penalties and interest accruing on the debts restructured under the solvency renewal plan, etc. This initiative also suggests amendment of the procedural mechanisms for the term of quarantine, in particular, the mechanism of holding creditors' meetings and creditors' committee meetings, voting, execution of decisions, etc.

Equity

No (semi-) equity measures have been announced.

Taxation



Corporate Income Tax

In 2020, funds (value of goods) voluntarily transferred to combat COVID-19 would not fall under the tax adjustment increasing financial result by amount that exceeds 4% of the profit for previous reporting year.

Social Security/Employment/Wage Tax

Personal Income Tax

Ukraine has postponed the deadline for filing an annual PIT Return from 1 May 2020 to 1 August 2020. The deadline for payment of relevant PIT liabilities pushed forward from 1 August 2020 to 1 October 2020.

The deadline for filing annual tax returns for 2019 by individuals was extended until 1 July 2020 (previously 1 May 2020). Respective tax liabilities should be paid until 1 October 2020 (previously 1 August 2020).

The amounts of PIT paid from the 300% bonus on healthcare practitioners' salaries for the period from 1 May 2020 until 30 June 2020 will be fully refunded from the state budget.

Starting from 2 April 2020, compensations for partial unemployment caused by the COVID-19 pandemic are not subject to PIT and DT.

Social Security Contributions

From 1 March 2020 through 31 May 2020, individual entrepreneurs are spared from obligation to pay the Unified Social Contribution for themselves.

VAT

Until the last calendar day of the month in which the quarantine will be terminated, import and supply on the territory of Ukraine of goods purposed to combat COVID-19 are subject to VAT exemption.

Excise / Import duties

Until 30 June 2020, goods purposed to combat COVID-19 are subject to import duty exemption.

Until the last calendar day of the month in which the quarantine is terminated, the excise tax levied on ethanol utilized for the production of disinfectants is set at UAH 0 per 1 liter.

Taxation



Other Taxes

Land Tax

From 1 March 2020 to 31 March 2020, land tax (rent) should not be levied on individuals and legal entities with respect to their land plots used in commercial activities.

Liability:

Fines for the violation of tax legislation (the SSC legislation) will not apply to violations taking place during the period from 1 March 2020 until the last calendar day of the month in which the quarantine is terminated. At the same time, violations in the following areas are not covered by the exemption from liability: VAT, excise tax, royalty tax, alienation of pledged property, long-term life insurance, operations with ethanol, fuel, alcohol and tobacco products.

No late payment interest will be charged from 1 March 2020 until the last calendar day of the month in which the quarantine is terminated. Late payment interest accrued during this period must be written-off.

Tax audits:

Temporary moratorium on tax audits subject to few exceptions is pushed back to the last calendar day of the month in which the quarantine is terminated.

Suspension of the tax audits commenced prior to 18 March 2020 is extended until the last calendar day of the month in which the quarantine is terminated.

Limitation period:

Running of tax limitation periods is suspended for the period from 18 March 2020 until the last calendar day of the month in which the quarantine is terminated.

Suspension of statutory terms:

the following statutory terms are suspended until the last calendar day of the month in which the quarantine is terminated: terms established for filing and consideration of administrative appeals (except for certain VAT-related claims); terms established for issuance of tax rulings in writing by the tax office;



Home



Summary



EMEA



AMERICAS



AP

Taxation



- terms established for taxpayers to provide responses to the tax office's inquiries (except for certain VAT-related inquiries).

Comments

N/A



Home



Summary



EMEA



AMERICAS



AP

EU State Aid Approvals

Two schemes to support SMEs both under the "Coronavirus Business Interruption Loan Scheme" (CBILS) providing up to GBP 600 million (approximately EUR 654 million) in **guarantees** that cover 80% of loan facilities for SMEs with a turnover of up to GBP 45 million (approx. EUR 49 million) to cover working and investment capital needs (up to six years maturity) implemented through the British Business Bank, a national promotional bank **direct grants** to support SMEs up to GBP 600 million in total (approx. EUR 654 million) and EUR 800,000 per company

The schemes will run to 30 September with the possibility to extend them to 31 December 2020 (25 March)

A **third measure** consists of a **UK-wide National Temporary Framework** for State aid and allows for the provision of aid in the form of:

- a) Direct grants, equity injections, selective tax advantages and advance payments;
- b) State guarantees for loans subject to safeguards for banks to channel State aid to the real economy;
- c) Subsidised public loans to companies with favourable interest rates;
- d) Support for coronavirus related research and development (R&D);
- e) Support for the construction and upscaling of testing facilities to develop and test products useful to tackle the coronavirus outbreak;
- f) Support for the production of products relevant to tackle the coronavirus outbreak.

The measure allows aid to be granted by UK authorities at all levels, including central government, devolved governments, local authorities and other bodies administering schemes involving state resources channeled through their own budgets (6 April).

A **fourth measure** consisting of aid in the form of **direct grants** for lower-end income self-employed individuals, including members of partnerships. The overall estimated budget is approx. EUR 10.3 billion (11 May).

Foreign Investment Restrictions

None. The UK is planning to introduce a foreign investment review regime. This was proposed in 2017 and the Government has indicated that it intends to press ahead. No new measures have been announced in specific response to COVID-19.

Debt

The UK government has now introduced four main financial support measures:

- the COVID Corporate Financing Facility (CCFF) to provide bridge financing to larger UK incorporated companies provided they meet certain eligibility criteria relating to the nature and extent of their business activities in the UK and their financial health prior to COVID-19;
- the Coronavirus Business Interruption Loan Scheme (CBILS) designed to assist smaller businesses with an annual turnover not exceeding £45 million by providing lenders with a government-backed guarantee at up to 80% of an outstanding facility to encourage and support lending to those smaller businesses that might be experiencing lost or deferred revenues leading to disruptions in their cash flow, subject to eligibility criteria;
- the Coronavirus Large Business Interruption Loan Scheme (CLBILS) designed to support viable businesses with an annual turnover exceeding £45 million (developed most recently to fill a gap that existed between the CCFF and CBILS schemes) by providing lenders with a government-backed guarantee at up to 80% of an outstanding facility (similar to the CBILS but, unlike the CBILS, including interest and fees) subject to a lender portfolio cap and again subject to eligibility criteria;
- the Future Fund scheme designed to assist innovative start-up companies who find themselves in difficulty as a result of COVID-19, provided that they are unlisted UK registered companies that have raised at least £250,000 from private third party investors in round funding over the previous 5 years and have a substantive economic presence in the UK. Funds will be issued as convertible loans on a matched funding basis i.e., loans will be provided at a value of between £125,000 and £5 million, provided that the loan amount is matched by private third party investors. Detailed terms and conditions apply, particularly around the repayment and conversion to equity profile and the scheme is expected to be available for applicants from May; and
- the Bounce Back Loan Scheme designed to assist smaller to medium sized businesses get access to funds quickly by providing lenders with a full (100%) government-backed guarantee of an outstanding term loan facility (including interest) of up to 6 years from an amount of £2,000 up to 25% of a business' turnover capped at £50,000.

Exclusions

The CCFF scheme is specifically not available to: banks, building societies, insurance companies and other financial sector entities regulated by the Bank of England or the Financial Conduct Authority; leveraged investment vehicle; or companies within groups that are predominantly active in businesses that are subject to financial sector regulation.

The CBILS, CLBILS and BBLS are specifically not available to: banks, credit institutions, building societies, insurers, reinsurers; public sector bodies; grant funded further education establishments; and state funded primary and secondary schools.



Home



Summary



EMEA



AMERICAS



AP

Debt

Process to get support

For the CCFF, liaise with your own bank or another bank that issues commercial paper. If you have existing commercial paper that is eligible for the scheme, banks will assist with issuing it to the CCFF. For the CBILS, CLBILS or BBLS companies should visit the website of the British Business Bank (www.british-business-bank.co.uk) and approach one of the listed accredited lenders with their borrowing proposal. The decision as to whether a company is eligible for CBILS rests with the individual lender.

Further details will be provided with regards to the Future Fund scheme once they are available. More information on the application process (including application forms and a pricing schedule) is available on the Bank of England website (www.bankofengland.co.uk)

The website of the British Business Bank is www.british-business-bank.co.uk



To read more about this topic, please see this alert: [Do the UK Government's measures fit the Bill?](#)

Insolvency



Is state support for distressed business available?

There is no specific statute or provision in relation to state support. However, the UK Government could put in place special/emergency/temporary provisions to provide support in the event of a systemically important business or particular sector being at risk. Steps have previously been taken by the UK Government to support distressed banks. In response to the COVID-19 pandemic, the UK Government has announced that up to GBP 330 billion of government support will be available to eligible businesses, through a number of schemes.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

The UK Government has proposed a temporary suspension of the wrongful trading provisions contained in the Insolvency Act 1986. The suspension applies retrospectively from 1 March 2020 for a period of three months (although the UK Government has stated this may be extended, if necessary). In brief, wrongful trading occurs when a director of a UK company that has gone into insolvent liquidation or administration proceedings continues to trade the company when they knew, or ought to have concluded, that there was no reasonable prospect of the company avoiding insolvency. The consequences of a director being found to have committed wrongful trading are severe. Directors can be held personally liable for the losses suffered by the company and its creditors and can also be disqualified from acting as a director. Directors do have a defense if they can show they took "every step" with a view to minimizing potential losses to the company's creditors.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

In response to the COVID-19 pandemic, the UK Government has announced that it will prioritize certain reforms to the UK insolvency framework that were initially announced in August 2018. Further detail is still needed about these measures but a summary of the key reforms are set out below.

New moratorium

A new restructuring procedure will be implemented, a key feature of which will include a short moratorium. This procedure would be used by solvent companies facing financial difficulties in order to give them 'breathing space' to explore options for their continued viability.

The initial announcement from the UK Government is that the moratorium will be similar in scope to the existing administration moratorium that prevents creditor enforcement action. During the moratorium, a 'monitor' (being a licensed in-solvency practitioner) will be appointed. The monitor's role will be to (amongst other things) ensure the company is not insolvent and that a rescue of the business remains more likely than not. The moratorium will be for a period of 28 days with a 28-day extension possible, providing such an extension is approved by the required number of creditors.

New restructuring plan

The government has proposed introducing a new flexible restructuring procedure borrowing elements from the US Chapter 11 proceedings. It is designed to enable companies to implement a restructuring plan capable of binding all creditors, even where junior classes of creditors vote against the plan. In line with the English scheme of arrangement, it is intended to be a flexible process with no formal entry requirement. In terms of approvals, the restructuring plan will need the consent of: (1) at least 75% in total value of the creditors (within each class who vote); as well as (2) more than 50% of the total value creditors who are not connected with the company.

This procedure will allow what is termed a "cross-class cram down." This is not currently permitted under English law and would allow the plan to be imposed even on an entire dissenting class of creditors. This cram-down will require a certain level of creditor approvals and it would need to be shown that certain creditors will be better off under the restructuring plan, as well as meeting certain other requirements around the distribution of proceeds to creditors.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Termination prohibition

Another reform announced is the prohibition of so called "ipso facto" termination clauses. In effect, such clauses give rise to a termination right following certain insolvency events or other financial conditions. This would mean that where a company enters either: (1) a formal insolvency process; (2) the new moratorium procedure outlined above; or (3) the new restructuring plan outlined above. Termination of certain contracts on these grounds will not be permitted. Termination on the basis of non-payment however will be preserved. Based on the announcements from the UK Government, it is expected these provisions will extend to contracts for supplies of goods and services, as well as to licenses for software and patents. Certain types of financial products and services are expected to be exempt. Counterparties will be given the right to apply to court for permission to exercise an otherwise prohibited termination right.

Equity

The UK Future Fund

The £250 billion bridge funding scheme for startups and R&D companies that was announced at the end of April allows for automatic conversion of the loan and outstanding interest into shares. The Future Fund scheme will issue convertible loans between £125,000 and £5 million, provided that companies are able to secure a matching amount from private investors.

To qualify, companies must: (1) be unlisted, UK registered and incorporated before 31 December 2019, (2) have received at least £250,000 of third party investments in the past five years, (3) have substantive economic presence in the UK (either at least 50% of its employees or its revenues), and (4) if part of a group, be the ultimate parent company.

The term of the loan is 36 months and the interest rate shall be at least 8% per annum. Applications to the Future Fund will remain open until the end of September 2020. For more information see our client alert on the Future Fund and other COVID financing support mechanisms in the UK here: https://www.bakermckenzie.com/-/media/files/insight/publications/2020/04/covid_corporate_financing_facility_8940.pdf

Other Support Measures

It has been reported that plans have been drawn up under which the UK Government might invest in equity for companies in the transport and airline sectors on a case-by-case basis.

In addition, there are small grant schemes in Wales, Scotland and Northern Ireland aimed at smaller businesses, including retail, hospitality and leisure businesses. There is also a small UK grant scheme aimed at companies which may be able to assist in the response through innovation.



Home



Summary



EMEA



AMERICAS



AP

Equity

It may also be noted that there are a range of UK government schemes and support measures that UK based companies may be able to use. These include: (1) The Coronavirus Job Retention Scheme (the CJRS) which is available to all UK employers and will reimburse employers for 80 percent of the wages of "furloughed workers" (being workers who are being asked to stop working for the time being but remain employees during this time) up to £2,500 per month, (2) a deferral of VAT payments for three months from 2 March 2020 to 30 June 2020, (3) the possibility of additional time to pay tax to HMRC, (4) a statutory sick pay scheme for UK based businesses that are small or medium sized with fewer than 250 employees as of 28 February 2020, and (5) a business rate holiday for the retail, hospitality and leisure sector.

Taxation

Corporate income tax

To be determined.

Social security / Employment / Wage taxes / Personal Income Tax

Income tax payments due under the self-assessment system on 31 July 2020 will be automatically deferred until 31 January 2021. No penalties/interest for late payment will be charged during the deferral period.

VAT

- VAT returns must still be filed on time, in accordance with the Making Tax Digital requirements
- The government declared postponement of all VAT payments by UK businesses for the next three months, i.e., for periods until the end of June 2020. This unpaid VAT should then be paid by the end of the 2020/21 financial year, ending on 31 March 2021 (for monthly VAT payers) or, for quarterly returns, the applicable VAT return deadline (31 March, 30 April or 31 May 2021).
- There was no mention of interest charges being applied to the deferred VAT.
- Non-resident businesses remain liable to pay their VAT in accordance with the standard deadlines.
- VAT refunds and reclaims will be paid by the government as normal.

Excise / Import duties

To be determined.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Other taxes

General Tax Support

- All businesses and self-employed individuals in financial distress with outstanding tax liabilities may be eligible to receive support through HMRC's Time To Pay Service: **Call 0800 0159 559**.
- Agreed on a case-by-case basis, tailored to individual circumstances and liabilities.

Business Rates Holidays

- Automatic business rates holiday for retail, hospitality and leisure businesses in England will apply for the 2020/2021 tax year (with a similar holiday to be introduced for children's nurseries).
- Properties benefitting from the relief will be occupied hereditaments that are wholly or mainly being used:
 - as shops, restaurants, cafes, drinking establishments, cinemas and live music venues;
 - for assembly and leisure; or
 - as hotels, guest & boarding premises and self-catering accommodation.

Cash Grants to Businesses

- Available to businesses in retail, hospitality and leisure sectors:
 - Up to GBP 25,000 for businesses with a ratable value of GBP 15,001-GBP 51,000; or
 - Up to GBP 10,000 for businesses with a lower ratable value than above

One-off grant available to small businesses that pay little/no business rates due to an applicable relief (small business rate relief, rural rate relief or tapered relief) to help meet ongoing business cost.

Comments

N/A



Home



Summary



EMEA



AMERICAS



AP

State Aid

EU law generally prohibits EU Member States from **providing State aid** (unless exempted or approved by the EU Commission)

13 March 2020: EU Commission presents communication setting out already available routes to approval for aid to help mitigate socio-economic impact of COVID-19 e.g., ability to compensate specific companies or sectors for damages directly caused by COVID-19

19 March 2020: EU Commission adopts Temporary Framework to fast-track COVID-19 State aid approval (until end 2020)

3 April 2020: EU Commission adopts First Amendment to the Temporary Framework expanding fast-track COVID-19 State aid approval for a further 5 additional categories of measures

8 May 2020: EU Commission adopts Second Amendment to the Temporary Framework expanding fast-track COVID-19 State aid approval to recapitalisation (equity and hybrid capital) and subordinated debt instruments.

Some COVID-19 support measures will not qualify as prohibited State aid; for instance:

- direct consumer compensation company investment, deferring debt repayment, or shareholder guarantee, at market terms (= acceptable to a private investor in comparable situation) measures generally applicable to all companies e.g., tax relief or relief from social contributions (≠ sectoral relief) COVID-19 Amended Temporary Framework fast track approval available for eleven types of aid under certain conditions:
- direct grants, selective tax advantages and advance payments: schemes for support of up to EUR 800,000 per company for urgent liquidity needs, including in the form of equity or quasi-equity;
- State guarantees for loans taken by companies from banks: Member States can provide State guarantees to ensure banks keep providing loans to customers, including for subordinated loans;
- subsidised public loans to companies: Member States can grant loans with favourable interest rates to companies, now also available for subordinated loans;
- safeguards for banks that channel State aid to the economy;
- support for COVID-19 related (i) R&D, (ii) testing and upscaling of testing facilities, and (iii) production facilities for medicines, vaccines, medical devices, etc.;
- sectoral or regional tax or social security breaks or wage compensation to avoid layoffs;



Home



Summary



EMEA



AMERICAS



AP

State Aid

- equity and hybrid capital investments as a matter of last resort and subject to stringent conditions regarding size, remuneration, exit and governance.

All Member States (except Cyprus) and the UK had a total of more than 100 support schemes approved under the Framework so far.



To read more about this topic, please see this alert: [Government Support in the EU: more options for Member States' support for businesses under the amended Temporary Framework for State Aid](#)

Foreign Investment Restrictions

On 25 March 2020 the European Commission issued new guidelines to ensure an EU-wide approach to foreign investment screening in a time of public health crisis and related economic vulnerability. The aim is to preserve EU companies and critical assets, notably in areas such as health, medical research, biotechnology and infrastructures that are essential for security and public order, without undermining the EU's general openness to foreign investment. The Commission calls upon Member States that already have an existing screening mechanism in place to make full use of tools available to them under EU and national law to prevent capital flows from non-EU countries that could undermine Europe's security or public order. The Commission also calls on the remaining Member States to set up a fully-fledged screening mechanism and in the meantime to consider all options, in compliance with EU law and international obligations, to address potential cases where the acquisition or control by a foreign investor of a particular business, infrastructure or technology would create a risk to security or public order in the EU.

Debt

The European Central Bank has recently adapted its corporate sector purchase program (CSPP) and initiated its Pandemic Emergency Purchase Program (PEPP) in response to COVID-19. The CSPP was originally created in mid-2016 as part of an asset purchase programme that also includes a programme re purchase of ABSs, covered bonds and public sector assets in the secondary markets. The CSPP was aimed at achieving inflation rates below, but close to, 2% over the medium term. The primary amendment to the CSPP pursuant to the PEPP is in relation to the range of eligible assets under the CSPP, which has been extended to include non-financial commercial paper, making all commercial papers of sufficient credit quality (as described below) eligible for purchases under both the CSPP and the PEPP. Purchases by the ECB under the PEPP are separate from, and in addition to, purchases carried out under the CSPP, with an overall additional envelope under the PEPP of EUR 750 billion until the end of 2020 (which may be extended).



Home



Summary



EMEA



AMERICAS



AP

Debt

The main eligibility criteria for corporates are:

- Various issuer-related requirements, including that the issuer must be a corporate incorporated in a Member State whose currency is the euro (although there is no obvious reason that there could not be credit support, e.g., guarantees from non-eurozone affiliates);
- The debt securities must: have a minimum (remaining) maturity of 70 days (for purchase under the PEPP) or 6 months (for purchase under the CSPP) and a maximum remaining maturity of 30 years at the time of their purchase by the relevant Eurosystem central bank to be eligible for purchase under the PEPP;
 - must be denominated in euro;
 - be rated at least Credit Quality Step 3 (maximum probability of default over a one-year horizon of 0.40%) by one of the four accepted CRAs (S&P, Moody's, Fitch and DBRS), but with various recently announced grandfathering provisions have a fixed and unconditional principal amount, and a coupon that may not result in a negative cash flow;
 - be unsubordinated; be issues using global notes that are of the appropriate form e.g., new global notes (NGNs) or issued under the new safekeeping structure for international debt instruments, and be admitted to trading on a regulated or accepted non-regulated market.

Equity

EU funding: Recovery Plan for Europe

On 27 May 2020, the Commission presented its proposal for the Recovery Plan for Europe ("ERP"), which together with the future EU budget aims to provide €1.85 trillion to help kick-start the EU economy. €750 billion of this to be provided under 'Next Generation EU' are intended to be invested in the near future. The ERP will accelerate the European Green Deal which will be at the core of Europe's growth strategy, alongside investment in digital technologies.

[Please see this interactive one-page PDF for a concise overview.](#)

Americas



Argentina



US



Brazil



Venezuela



Canada



Chile



Colombia



Mexico



Peru





Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

COVID-19 has had no impact on Argentina's foreign investment review regime.

Debt

Extension of maturities

Maturities of loans with financial entities were deferred until 1 April 2020. Additionally, financial entities shall automatically refinance unpaid balances of loans with installments due from 1 April 2020, to 30 June 2020. Unpaid balances in such period can only accrue compensatory interest (no other surcharge is allowed).

Furthermore, the Central Bank introduced certain flexibility in the classification of debtors in the financial system.

Special credit line

Argentine Central Bank established a special credit line for micro, small and medium companies at an annual interest rate of 24% (please consider that inflation rate for this year is at least around 40% according to market estimations). The loans are aimed at financing working capital (payment of salaries, due checks, among others).

Under this line of credit at 24%, loans for ARS217,811 million have been approved, of which ARS 176,321 million were disbursed, among a total of 111,000 companies.

The Central Bank also promoted a new line, called PYME Plus, so that a group of certain companies that do not have a credit rating have access to credit on advantageous terms. Banks will not be able to deny this line, to those companies who previously access the FOGAR guarantee.

Lending Capacity

To increase lending capacity, the Central Bank required financial entities to release from their portfolio a portion of treasury bills and allowed financial entities to reduce their mandatory fractional reserves. Additionally, financial entities cannot distribute dividends until June 30.

Inflation

To contain inflation, the Central Bank established that financial entities shall offer to individuals long term deposits at a rate of 70% the rate of the monetary policy.



Home



Summary



EMEA



AMERICAS



AP

Debt

Specific Trust Fund

Argentine Government issued Decree 326/2020 ("Decree") establishing the Specific Trust Fund ("Fund") aimed at providing guarantees to ease the access to loans for working capital for micro, small and medium companies registered with the MiPyMES Companies' Registry set forth in Law No. 24,467. The Fund shall be set up within the Argentine Guarantees Fund (FoGAR).

FoGAR is a fund created by fostering Law No. 25,300 for Micro, Small and Medium Enterprises whose purpose is to improve the ability of persons that engage in economic and/or productive activities within the country to access loans. The Decree authorized a budget adjustment of ARS 30,000,000,000 to allocate such amount to the creation of the Fund within the FoGAR.

Thus, MiPyMES may take loans 100% guaranteed by the Fund without the need of offering counter guarantees.

FoGAR provided guarantees for financial institutions to grant new loans for ARS 92,046 million.

Emergency Aid Program for Employment and Production

The Emergency Aid Program for Employment and Production ("Program") for employers and employees affected by the health emergency offers these benefits, as per its latest modifications on 20 April, 2020:

- i. deferred payment date or discount of employer's social security contributions of up to 95% for salaries paid during April 2020;
- ii. 50% of remunerative allowance to be paid by the Government in addition to regular salary for private-sector employees; and
- iii. loans with zero interest rate for self-employed individuals; and
- iv. higher unemployment subsidies.

To access benefits i. through iii., employers must meet any of these requirements:

- show evidence that their economic activity has been critically affected in the geographic area where it is deployed;
- have a relevant number of employees diagnosed with COVID 19, under mandatory isolation, released from work for belonging to a risk group or for relative-caring obligations in connection with COVID 19; or
- show evidence that their sales were invoicing was substantially reduced after 12 20 March 2020



Home



Summary



EMEA



AMERICAS



AP

Debt

- Regarding the Supplemental Salary to be paid by Government to employees of employers who access the benefit, those who applied in the past must evidence a downturn in their March-April 2020 invoicing vis-à-vis the same period in 2019. For employers which did not have any invoicing for said period, the November-December 2019 gap will be considered;
- To access the benefit, 2020 invoicing for said gap had to be the same as or lower than the same gap in 2019. Now, employers' applications will be valid if the invoicing level for 2020 is of up to 5% higher than the 2019 one, considering the level of inter-annual inflation registered between March 2019 and March 2020.

The Federal Tax Authority ("AFIP") has allowed access to a website with the updated list of activities eligible to apply for the Program's benefits.

Insurance and financial services companies are excluded from the Program. While employers providing activities considered "essential" were also originally excluded from these benefits, as of 7 April 2020, these companies may also apply for the benefits provided they can demonstrate a "significant negative impact" on their activities or services. An Evaluation and Monitoring Committee of the Program is in charge of issuing recommendations as to the granting of benefits under the Program. The final decision lies with the Chief of Staff, who, relying on the recommendations of the Committee, must decide on whether to grant any benefits and the extent.

Zero Rate Financing

The Central Bank regulated the granting of a zero percent interest rate financing in pesos to all requesting beneficiaries by local financial institutions. The list of beneficiaries will be designated by the tax authority but it is aimed to self-employed individuals.

The maximum amount is ARS 150,000.

The financing must be credited within 2 business days as from the filing of the corresponding application. The financing will be credited in the credit card issued by the financial entity in three equal and consecutive monthly installments. The financing will have a grace period of 6 months from the first accreditation. From the following month, it will be repaid in at least 12 equal and consecutive monthly installments. The beneficiaries receiving this financing will not be able, until total repayment, to access the exchange market to purchase foreign currency for buildup of external assets and to purchase securities in pesos for their settlement in foreign currency.



Home



Summary



EMEA



AMERICAS



AP

Equity

No (semi-) equity measures have been announced.

Insolvency



Is state support for distressed business available?

Extrajudicial voluntary agreement: No. The only governmental assistance provided is a moratorium for tax and social security debt.

Reorganization proceedings: Idem extrajudicial voluntary agreement.

Liquidation bankruptcy: No.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Extrajudicial voluntary agreement: No.

Reorganization proceedings: No.

Liquidation bankruptcy: No.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Extrajudicial voluntary agreement: No.

Reorganization proceedings: No.

Liquidation bankruptcy: No.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate income tax

No specific measures have been adopted.

Social security / Employment / Wage taxes / Personal Income Tax

Employees mobilized because they perform essential business activities, and are required to work beyond standard hours for these purposes, will have a 95% reduction of the social security rate as provided in section 19 of Law No. 27,541 of the Argentine Integrated Social Security System.

For a period of 90 days, employers conducting health-related activities are subject to a reduction of 95% of the rate destined to the Argentine Integrated Social Security System.

In cases of dependent employment, the term to inform deductions and concurrent employment (if applicable) and to settle the Income Tax, for fiscal year 2019, was extended until 29 May.

An Emergency Family Income was created, which consists in the payment of ARS 10,000 to a category of taxpayers called "Monotributistas (A/B)", unemployed people, employees of the informal economy and domestic workers.

VAT

No specific measures have been adopted.

Excise / Import duties

Certain tariff codes customarily subject to Non Automatic Import Licenses (e.g., disinfectants, cleaning and hygiene articles, chemical products, etc.), are currently subject to Automatic Import Licenses.

Other taxes

Temporary reduction (for a period of 90 days) of the tax rates applicable on the Tax on Debits and Credits on Checking Accounts and other Transactions for establishments and institutions engaged in the provision of health services.

The 0.60% rate has been reduced to 0.25%. In addition, the 1.20% has been reduced to 0.50%.



Home



Summary



EMEA



AMERICAS



AP

Taxation

The Federal Tax Authority has extended (until 30 June 2020) the facilitating payments on tax, social security and customs debts set forth by General Resolution No. 4268/2018.

The Federal Tax Authority has extended (between 18 May 2020 and 22 May 2020) the term to file Transfer Pricing documents related to fiscal years closed between 31 December 2018 and 30 September 2019 (including).

Decree No. 330/2020 was published in the Official Gazette on 1 April 2020, extending until 30 April 2020 the deadline to repatriate 5% of foreign assets for purposes of being subject to the 1.25% Personal Assets Tax rate (and not to the aggravated 2.25% rate).

Comments

- The Federal Tax Authority has declared the suspension of procedural legal terms between 18 March and 26 April 2020.
- The City of Buenos Aires Tax Authority has declared a suspension of procedural legal terms between 16 March and 27 April 2020.
- The Province of Buenos Aires Tax Authority has declared the suspension of procedural legal terms until 12 April 2020.
- In addition, the payment of certain taxes and related filings have been postponed by local jurisdictions.



To read more about this topic, please see this alert: [Argentina COVID related legal news](#)



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

There has been no change to foreign investment rules.

Debt

The Brazilian Development Bank (BNDES) has declared a standstill period in relation to loan agreements entered directly with BNDES and loan agreements entered with private banks using funds from BNDES. This standstill period applies to principal and interest amounts and is valid for 6 months. These amounts will be capitalized and their final maturity date will not change. Further, in relation to the direct loans entered with BNDES, other requirements for the standstill are that the companies may not distribute dividends in excess of the minimum legal requirement of 25% of the net profit.

New loans are being made available in the amounts of R\$ 5 billion to companies with annual revenue of up to R\$ 300 million (considered small and medium sized companies). These loans will have a grace period of 24 months and term of 5 years.

For the health industry, BNDES has made available a credit line of R\$ 2 billion for companies that produce or may want to change its production line to build health equipment, including monitors, ventilators, hospital beds and masks. The loan limit per company is R\$ 150 million, with a grace period of 24 months and a maturity of 5 years.

On 27 March, the Brazilian Central Bank announced an emergency line of credit of R\$ 40 billion, to assist small and medium size companies with annual invoicing ranging from R\$ 360,000 to R\$ 10,000,000. The purpose of this measure is to pay the salaries of the employees of these companies for a period of two months and to reduce the number of terminations, as well as mitigate potential salary reductions during the pandemic.

- the payment will be credited directly in the employees bank account through payroll, up to the limit off to monthly national salaries, currently corresponding to R\$ 2,090.
- companies will have to complement the employees' pay in case the monthly salary exceeds this limit.
- in return for the credit granted, companies will not be able to terminate their employees during the 2 months of public financing.



Home



Summary



EMEA



AMERICAS



AP

Debt

Possibility for the company's to offset the Company's Social Security Contribution (not yet matured) with the employee's salary paid during the first 15 days of sick leave (due to COVID-19). A limit of USD 1,200.00 approx. applies (BRL 6,101.06).

- the payment term will be 30 months, with a grace period of 6 months and an interest rate of 3.75% per year.

This incentive and its start date still is subject to an executive order being issued by the federal government for the opening of this line of credit and the creation of a BNDES-operated fund, supervised by the Central Bank together with resources from the National Treasury. The government is also studying other lines of credit for companies.

Insolvency



Is state support for distressed business available?

Extrajudicial voluntary agreement: No.

Judicial reorganization proceedings: Idem extrajudicial voluntary agreement.

Bankruptcy: No.

Preventive Negotiation: No.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Extrajudicial reorganization proceeding: The Brazilian National Council of Justice issued Recommendation no. 63, which is a list of some measures to be taken in judicial reorganization lawsuits to guide the judges and the state courts on how to deal with some specific matters related to COVID-19.

These recommendations are not mandatory. Regarding extrajudicial reorganization proceedings, Recommendation no. 63 only suggests that the judges grant priority to decide issues related to the withdrawal of amounts deposited in the court records on behalf of creditors or companies under extrajudicial reorganization.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Judicial reorganization proceeding: The Brazilian National Council of Justice issued Recommendation no. 63, which is a list of some measures to be taken in judicial reorganization lawsuits to guide the judges and the state courts on how to deal with some specific matters related to COVID-19. These recommendations are not mandatory. Regarding judicial reorganization proceedings, Recommendation no. 63 suggests that the judges: (i) grant priority to decide issues related to the withdrawal of amounts deposited in the court records on behalf of creditors or companies under judicial reorganization; (ii) suspend creditors' meetings but suggests it occurs by electronic means; (iii) extend the stay period (e.g., extend the suspension to file new lawsuits against the debtor or to continue pending lawsuits); (iv) authorize the debtor to present an amendment to approved plans (some requirements apply for such amendment); and (v) carefully review requests of converting judicial reorganization into bankruptcy due to the breach of obligations provided in an approved plan.

Bankruptcy: The Brazilian National Council of Justice issued Recommendation no. 63, which is a list of some measures to be taken in judicial reorganization lawsuits to guide the judges and the state courts on how to deal with some specific matters related to COVID-19. These recommendations are not mandatory. Regarding bankruptcy, Recommendation no. 63 only suggests that the judges grant priority to decide issues related to the withdrawal of amounts deposited in the court records on behalf of creditors or bankruptcy companies.

Preventive Negotiation: N/A. This procedure does not exist in the current Brazilian Law of Judicial Reorganization and Bankruptcy.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Extrajudicial reorganization proceeding: Yes. There is a Bill of Law ("PL no. 1,397/2020") that suggests the following changes: (i) the three-fifths quorum required by the law to have the plan in the extrajudicial reorganization binding to all the creditors of that specific class shall be reduced to one-half plus one of the credits subject to such plan; (ii) the obligations set forth in the extrajudicial reorganization plan already approved will not be due from the debtor for a period of 120 days; (iii) fix a stay period (e.g., period of time during which it is not possible to file new lawsuits against the debtor or to continue pending lawsuits); (iv) the possibility of requesting extrajudicial reorganization even if the debtor has already requested it or judicial reorganization in the past five years (which, nowadays, is prohibited); (v) the possibility of filing an amendment to the plan that has already been approved and ratified by the court; (vi) the inclusion of new creditors that were not subject to the extrajudicial reorganization by the time it was filed (and, thus, were not encompassed by the previous plan).



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Judicial reorganization proceeding: Yes. PL no. 1,397/2020 suggests the following changes: (i) refrain creditors from enforcing their rights in relation to co-obligors, guarantors and third-party obligors; (ii) refrain the judge from declaring the debtor's bankruptcy for non-compliance with the judicial reorganization plan; (iii) the obligations set forth in the judicial reorganization plans already approved will not be due from the debtor for a period of 120 days; (iv) creditors cannot request the debtor's bankruptcy based on non-compliance of the plan during this moratorium period; (v) the possibility of requesting judicial reorganization even if the debtor has already requested it or extrajudicial reorganization in the past five years (which, nowadays, is prohibited); (vi) the possibility of filing an amendment to the plan that has already been approved and ratified by the court; (vii) inclusion of new creditors that were not subject to the judicial reorganization by the time it was filed (and, thus, were not encompassed by the previous plan)

Bankruptcy: Yes. PL no. 1,397/2020 suggests changing the minimum amount to request the bankruptcy of a debtor: instead of the criteria of 40 minimum wages (which is around BRL 41,560 nowadays), it would change to BRL 100,000 .

Preventive Negotiation: PL no. 1,397/2020 creates this procedure. A debtor who proves a reduction equal to or greater than 30% of their billing, compared to the average for the last quarter, may file a voluntary law called "preventive negotiation." By the time of the filing of such request, the judge must analyze whether the party is an economic agent and whether there was a 30% reduction in revenues — criteria for granting the request. If so, the judge will determine the suspension of the lawsuits against the debtor for 60 days and he/she may appoint a negotiator, whose scope of work and payment will be made by the debtor. The negotiator can be any person, individual or legal entity, with recognized professional capacity. After 60 days, the debtor, or the appointed negotiator, must present a report on the activities carried out, which will determine the closing of the procedure. During the preventive negotiation period, the debtor may enter, regardless of judicial authorization, into agreements with any financing agent, including with its creditors, shareholders or affiliates, to support restructuring and asset preservation costs. If the debtor requests an extension of the preventive negotiation term and the requirements for granting judicial reorganization are met, the request will be immediately converted into judicial reorganization and the period of 60 days of suspension will be deducted from the stay period provided for in the Brazilian Law of Judicial Reorganization and Bankruptcy.



Home



Summary



EMEA



AMERICAS



AP

Equity

No (semi-) equity measures have been announced.

Taxation



Corporate income tax

Extension of 90 days to the deadline for payment of Corporate Taxes for companies under the SIMPLES regime.

Potential adoption of judicial measures to extend the deadline for payment of Corporate Taxes to taxpayers under the regular tax regime. Decisions have been issued by the courts in this regard (Judicial measure also viable to extend the deadlines applicable to State and Municipal taxes).

Social security / Employment / Wage taxes / Personal Income Tax

Reduction of 50% on the tax rates applicable to contributions due to System "S" from 1 April to 30 June 2020 (except for the SEBRAE contributions).

Suspension of the obligation to collected the FGTS in relation to the months of March, April and May, 2020.

Postponing of the deadline for payment of **Company's Social Security Contribution and Federal Welfare Taxes** (PIS and COFINS) originally due in April and May, 2020, to August and October, 2020. The Government extended on April 8 these effects to the Social Security contributions due by Agroindustries and Rural Producer and to the Social Security Contribution on Gross Revenues - CPRB.

Possibility for the company's to offset the Company's Social Security Contribution (not yet matured) with the employee's salary paid during the first 15 days of sick leave (due to COVID-19). A limit of USD 1,200.00 approx. applies (BRL 6,101.06).



Home



Summary



EMEA



AMERICAS



AP

Taxation



VAT

Certain States have issued regulations to suspend or extend the deadlines for the compliance of certain tax ancillary obligations, as well as payments of installments issued in connection of past tax amnesty programs.

Certain States have issued regulations to postpone the deadline for payment of **State Value-Added Tax on Sales and Services (ICMS)** for the companies under the SIMPLES regime.

Excise / Import duties

- Application until 30 September 2020, of the zero rate to the Import Duty on the importation of certain products required to combat COVID-19.
- Expedited customs clearance on the importation of products related to the combat of COVID-19.
- IPI rate reduced to 0% as related to the importation and sale of products related to combat of COVID-19.
- PIS/COFINS and PIS/COFINS-Import rates levied, respectively, on local sales and import of zinc sulfate classified under codes 300390.99 and 3004.90.99 were temporarily reduced to zero up to 30 September 2020.
- Up to 30 September 2020 reduction to zero of the Import Tax levied on the import of certain medications and medical protection instruments by means of a postal order or an international air purchase in the amount of up to USD 10,000 or the equivalent in another currency, sent to individuals or legal entities in Brazil.
- Provided that certain legal requirements are met, in the event of an emergency, a state of public calamity or a pandemic declared by the World Health Organization, recognized by the competent authorities, the Certificate of Origin of imported goods may be presented within up to 60 (sixty) days, counted from the date of registration of the Import Declaration (DI).
- The acts that granted drawback regimes with suspension of payment of taxes for one year, which will end in 2020, may be extended for one more year (Provisional Measure no. 960)
- The legal entities which are allowed to operate in the Exportation Processing Zone (ZPE) are exempted - in the calendar-year of 2020 - from earning and maintaining the percentage of gross revenues arising out of exportation.



Home



Summary



EMEA



AMERICAS



AP

Taxation



Other taxes

Certain States are providing a suspension or extension in the deadlines to comply with certain tax ancillary obligations.

Reduction to 0% of the tax rate of the Tax on Financial Transactions (IOF-Credit) levied on credit transactions entered into between 3 April 2020 and 3 July 2020.

The Brazilian IRS postponed the deadline for the filing of the following tax ancillary obligation: **DCTF** (federal taxes declaration) from the 15 business day of April, May and June to the 15 business day of July; **EFD - Contribuições** (social contributions declaration), from the 10 business day of April, May and June to the 10 business day of July; **DIRPF** (Individual's Income Tax Returns); **Final Departure Tax Return** - from 30 April 2020 to 30 June 2020. This extension also applies to the payment of the income tax (and other taxes) calculated by the individuals upon filing of these tax returns and **ECD** (Digital Accounting Declaration) related to calendar-year 2019, from 29 May 2020 to 31 July 2020.

Certain Municipalities have issued regulations to postpone the deadline for payment of **Services Tax (ISS)** for companies under the SIMPLES regime.

Postponement from 31 March to 31 August 2020 of the deadline for the payment of taxes levied on communication services (Operating Inspection Fee (TFF); Contribution to the Development of the National Film Industry (CONDECINE); and the Contribution to the Promotion of Public Radio Broadcasting (CFRP)). The taxpayers may opt to pay the taxes (i) in a single installment on 31 August 2020 or (ii) in up to five successive monthly installments, in which case the first installment will mature on 31 August 2020. An interest rate named SELIC will be charged in this case.

Comments

- Establishment of an extraordinary tax settlement program during the COVID-19 crisis. The taxpayers may opt for the tax settlement up to 30 June 2020.
- Extension for 90 days of the validity of Federal Tax Clearance Certificates.
- Suspension for 90 days in relation to certain collection acts by the Brazilian IRS Attorney Office.
- Suspension for 90 days in the deadlines and acts related to the imposition of joint tax liability on directors and administrators.
- Suspension of deadlines related to Federal Tax Administrative cases until 30 June 2020.
- Suspension of deadlines related to Judicial cases, except for those that are being proceed electronically, until 31 May 2020 (certain exceptions apply).



Home



Summary



EMEA



AMERICAS



AP

Taxation



- Postponement of payment of installments of amnesty programs of the Brazilian IRS and PGFN, except for those taxpayers subject to the SIMPLES regime. Payment of installments matured on May 2020 have been postponed to August 2020. Of June 2020 to October 2020 and of July 2020 to December 2020. Interest will apply.



To read more about this topic, please see this alert: [Possibility to replace judicial deposits performed by companies in labor and tax lawsuits by other forms of guarantee less burdensome to taxpayers](#)



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

Pursuant to a new policy announced on 18 April 2020, the Canadian government will subject certain foreign investments into Canada to enhanced scrutiny. Specifically, while review thresholds remain unchanged and each investment will continue to be examined on its own merits, the government will scrutinize with particular attention foreign direct investments of any value, controlling or non-controlling, in Canadian businesses that are related to public health or involved in the supply of critical goods and services to Canadians or to the government. The government will also subject all foreign investments by state-owned investors, regardless of their value, or private investors assessed as being closely tied to or subject to direction from foreign governments, to enhanced scrutiny. This may involve the regulator requesting additional information or extensions of timelines for review as authorized by the Investment Canada Act, to ensure the government can fully assess the investment. This enhanced scrutiny of certain foreign investments will apply until the economy recovers from the effects of the COVID-19 pandemic.

On 19 May 2020, the Canadian government published draft legislation that, if implemented, would give the Minister responsible for foreign investment review the authority to extend national security review time periods under the Investment Canada Act by up to six months. Extensions could be issued until 30 September 2020, and can also extend periods retroactively from 13 March 2020.

Debt



(Note: What follows is a summary of federal government interventions. Provincial and municipal governments are also implementing their own measures.)

Support for Individuals/Communities

Canada Child Benefit: In May 2020, the federal government will provide up to an extra \$300 per child through the Canada Child Benefit (CCB).

Special Goods and Services Tax Credit Payment: Certain low-income and modest-income families already receive a Goods and Services Tax/Harmonized Sales Tax credit payment from the federal government. These families will receive a one-time special payment, beginning on 9 April 2020, equal to about \$400 for single individuals and about \$600 for couples.

Tax Deferral: Income tax returns do not need to be filed until 1 June 2020. New income tax balances or instalments do not have to be paid until after 31 August 2020.

Mortgage Support: The federal government has encouraged banks to help customers on a case-by-case basis, including allowing borrowers to defer up to 6 monthly mortgage payments (interest and principal).



Home



Summary



EMEA



AMERICAS



AP

Debt



Canada Emergency Response Benefit: Beginning on 6 April 2020, Canadian residents could apply for the Canada Emergency Response Benefit (CERB). The CERB provides eligible workers who have stopped working due to COVID-19 with \$500 per week (\$2,000 per month), for up to 16 weeks. On 15 April 2020, the federal government revised the CERB rules to expand the benefit to additional workers. Now, eligible workers must:

- be 15 years of age or older;
- be resident in Canada;
- have earned \$5,000 in employment or self-employment income, or pregnancy/parental benefits, in 2019 or the last 12 months before the application;
- be unable to work due to COVID-19 (other than a resignation), be eligible for Employment Insurance (EI) regular or sickness benefits or have exhausted their EI regular benefits or fishing benefits between 29 December 2019 and 3 October 2020; and
- not have earned more than \$1,000 during the period for which they are applying.

The benefit is available from 15 March 2020 to 3 October 2020, and employees can apply until 2 December 2020. Individuals cannot receive the CERB and regular Employment Insurance (EI) benefits at the same time, and must generally exhaust their CERB payments before receiving EI.

Salary Top-Up for Low-Income Workers: The federal government will work with provincial and territorial governments to top-up the salaries of essential workers. On 7 May 2020, the federal government announced that it would be contributing \$3 billion towards the top-ups, with provincial and territorial governments contributing \$1 billion. The government also confirmed that a previously-announced \$2,500 threshold would no longer be applied. Instead, each province or territory will determine which workers will be eligible for support and how much support they will receive.

Support for Students/Youth:

- Canada Student Loans and Canada Apprentice Loans repayments and interest do not have to be paid until 30 September 2020.
- The federal government will create a Canada Emergency Student Benefit (CESB), which will provide students who are ineligible for the Canada Emergency Response Benefit with \$1,250 per month between May and August 2020 (\$2,000 per month if the student has dependents or is living with a disability). The government has confirmed that students will be eligible for the CESB even if they have a job, provided that they do not earn more than \$1,000 per month.



Home



Summary



EMEA



AMERICAS



AP

Debt



- The federal government will create a Canada Student Service Grant, which will provide students with up to \$5,000 for their education in the fall if they volunteer for national service or to serve their communities.
- The federal government will double the Canada Student Grants for eligible students in 2020-2021. Full-time students will receive up to \$6,000 and part-time students will receive up to \$3,600.
- The federal government will increase the maximum weekly amount under the Canada Student Loans Program from \$210 to \$350 for 2020-2021. The government will also broaden eligibility by not considering the expected student's and spouse's contributions in 2020-2021.
- The federal government will provide an additional \$75.2 million in 2020-2021 to support First Nations, Inuit, and Métis Nation students pursuing post-secondary education.
- The federal government will provide \$291.6 million to federal granting councils to extend expiring federal graduate research scholarships and post-doctoral fellowships and to supplement existing grants. The government also intends to create work opportunities for graduate students and post-doctoral fellows through the National Research Council of Canada.
- The federal government has announced that it intends to expand existing programs to create up to 116,000 jobs, placements, and other training opportunities for students.
- The federal government has removed the restriction prohibiting international students from working more than 20 hours per week while classes are in session, provided that they work in an essential service or function. This rule change will be in place until 31 August 2020.
- The federal government will provide \$153.7 million to the Youth Employment and Skills Strategy, which provides funding to organizations that help youth overcome barriers to employment and develop a broad range of skills and knowledge.
- The federal government will provide \$80 million to the Student Work Placement Program, which provides post-secondary students with paid work experience in their fields of study by providing wage subsidies to employers that offer placements and partnering with post-secondary institutions to recruit students for placements.
- The federal government will provide \$40 million to Mitcas, which connects industry partners and post-secondary institutions, so that Mitcas can create 5,000 new placements. The Business/Higher Education Roundtable, another organization that connects industry partners and post-secondary institutions, will also adapt existing federal support to create at least 5,000 new placements.



Home



Summary



EMEA



AMERICAS



AP

Debt



Support for Indigenous Peoples:

- In March 2020, the federal government announced that it would provide \$305 million to an Indigenous Community Support Fund to address the immediate needs of First Nations (\$215 million), Inuit (\$45 million), and Métis Nation (\$30 million) communities. \$15 million would be used to support regional, urban, and off-reserve organizations. On May 21, 2020, the government announced an additional \$75 million for Indigenous peoples living in urban centres and off-reserve, for a total Indigenous Community Support Fund of \$380 million..
- The federal government will provide \$100 million to support federal health measures, including supporting preparedness in First Nation, Inuit, and Métis Nation communities.
- The federal government will provide \$25 million to Nutrition North Canada, a subsidy program that enables customers in specific communities to purchase eligible food and non-food items (e.g., diapers and non-prescription drugs) sold by registered retailers, suppliers or food processors.
- The federal government will provide \$285.1 million to fund additional health care resources in Indigenous communities.
- The federal government will provide an extra \$270 million to the On-Reserve Income Assistance Program.
- The federal government will invest a total of \$85.6 million over 5 years to build and support 12 new shelters to protect and support Indigenous women and children experiencing or fleeing violence. Additional funding will be available on an ongoing basis.

Support for Seniors:

- The federal government reduced the required minimum withdrawals from Registered Retirement Income Funds by 25% for 2020, allowing seniors to preserve more of their retirement investments.
- The federal government will contribute \$9 million to local organizations who support Canadian seniors, including by delivering groceries, medication, and other necessary items or by connecting seniors to community supports
- The federal government will allow organizations who have received community-based grants under the 2019-2020 New Horizons for Seniors Program to use their funding for activities related to COVID-19, regardless of the nature of the originally-approved project.



Home



Summary



EMEA



AMERICAS



AP

Debt



- The federal government will invest an additional \$20 million in the New Horizons program.
- The federal government will provide a one-time tax-free payment of \$300 to seniors eligible for the Old Age Security pension.
- The federal government will provide an additional \$200 to seniors eligible for the Guaranteed Income Supplement; and will temporarily extend GIS and Allowance payments for individuals whose 2019 income information has not yet been assessed, to avoid an interruption in benefits.

Support for Other Vulnerable Groups: The federal government will provide:

- \$100 million to organizations to improve access to food support
- \$157.5 million to the Reaching Home initiative to support people experiencing homelessness
- \$50 million to women's shelters and sexual assault centres to support women and children experiencing violence
- \$7.5 million to Kids Help Phone to provide mental health support to young people
- \$350 million to charities and non-profit organizations that deliver essential services to vulnerable groups, including seniors and people with disabilities
- \$100 million to the Canadian Red Cross.

Support for Businesses/Economy

Canada Summer Jobs Program: The federal government will make temporary changes to the Canada Summer Jobs Program:

- Employers can receive a subsidy of up to 100% of the minimum hourly wage for each employee. Previously, employers could only receive up to 50% of the minimum wage.
- Placements can last up to February 28, 2021. Previously, all placements had to end by August 28, 2020.
- Employers can adapt their projects and job activities to support the delivery of critical services.
- Employers can hire part-time employees. Previously, only full-time placements were allowed.



Home



Summary



EMEA



AMERICAS



AP

Debt



Federal Work-Sharing Program: The Work-Sharing Program is a federal program that allows employees to receive Employment Insurance (EI) benefits when they agree to work reduced hours for their employer. The expected work reduction must be between 10% and 60% to qualify for the program. A Work-Sharing Agreement must be reached by an eligible employer and eligible employees, and approved by Service Canada, so that earnings are not deducted from an employee's EI benefits. Between 15 March 2020 and 14 March 2021, the federal government has implemented several temporary measures:

- Work-Sharing Agreements can last up to 76 weeks, rather than 38 weeks.
- Employers will be able to enter into a new agreement immediately after their existing Work-Sharing Agreement expires.
- Employers no longer need to submit a comprehensive "Recovery Plan".
- Employers no longer need to provide sales/production figures at the same time.
- Eligibility criteria has been expanded so that the following employees/employers can participate: staff who are essential to recovery, Government Business Enterprises (GBEs), non-for-profit organization employers who have experienced a reduction in revenue or business activity due to COVID-19, and employers who have been in business for only 1 year.

10% Temporary Wage Subsidy for Employers: Eligible small employers - including individuals, certain partnerships, non-profit organizations, registered charities, and certain Canadian-controlled private corporations - can claim a subsidy equal to 10% of the remuneration paid to employees from 18 March 2020 to 19 June 2020, up to \$1,375 per employee or a total maximum of \$25,000 per employer. Eligible employers would continue to deduct income tax and other statutory withholdings from the remuneration, and the subsidy (i.e., a deemed tax remittance) would be calculated and subtracted from the amount to be remitted to the Canada Revenue Agency (CRA). For employers who pay tax-exempt remuneration to an eligible employee, the CRA will pay the subsidy amount to the employer at the end of the year. In all cases, the subsidy should be included in the employer's taxable income.



Home



Summary



EMEA



AMERICAS



AP

Debt



Canada Emergency Wage Subsidy: Eligible employers outside the public sector can claim a Canada Emergency Wage Subsidy (CEWS) if they demonstrate a decrease in revenue of 15% in March 2020, 30% in April 2020 or 30% in May 2020. The maximum amount of the subsidy for each employee is \$847 per week, for 12 weeks. The CEWS should be included in the employer's taxable income.

- "Revenue" refers to gross revenue in Canada earned from arm's-length sources, excluding revenue from extraordinary items and amounts on account of capital. Employers can demonstrate a revenue reduction by comparing year-over-year revenues (i.e., March 2019 to March 2020) or by comparing the claim period revenue against the average revenue earned in January and February 2020. Special rules apply for entities that receive all or substantially all of their revenue from non-arm's length sources, and for affiliated entities that wish to calculate their revenue as a group.
- Eligible remuneration includes salary, wages, and taxable benefits for which the employer would normally withhold or deduct amounts to remit to the Receiver General. For employees on a paid leave of absence, employers can also claim Canada Pension Plan, Québec Pension Plan, Employment Insurance, and Québec Parental Insurance Plan contributions. Special rules for employees who do not deal at arm's length with their employer.
- Employers cannot claim the CEWS for employees who were without pay for 14 or more consecutive days in a particular eligibility period.
- Penalties and anti-avoidance rules apply. Employers that engage in artificial transactions to qualify for the CEWS must reimburse the subsidy and pay a 25% penalty.
- Any benefits received by the employer under the 10% wage subsidy program, or by the employee under the federal Work-Sharing Program, will be deducted from the claim amount.

The program will be extended until 29 August 2020.

Tax Deferral: All businesses can defer the payment of income taxes owing between 18 March and September 2020, until 31 August 2020, with no interest or penalties. Businesses and self-employed individuals can defer until 30 June 2020 the payment of GST/HST owing between 27 March 2020 and 31 May 2020, as well as customs duty owing on imports for March, April and May 2020. Finally, the federal government is waiving tariffs on certain medical goods, including personal protective equipment such as face and eye protection, gloves, protective garments, disinfectants/sterilization products, wipes, medical consumables, and certain other products.



Home



Summary



EMEA



AMERICAS



AP

Debt



Support for Northern Businesses: The federal government will make available \$15 million to assist businesses in the territories with operating costs.

Regional Relief and Recovery Fund: The federal government will provide \$962 million to businesses and organizations that are critical to their regions and local economies. Businesses can apply through their local Regional Development Agency. The initiative consists of two components:

- The federal government will provide \$287 million through the Community Futures Network of Canada to assist rural businesses. The Community Futures Network operates 267 offices across Canada to provide small business services to individuals in rural communities, including business loans, tools, training, and events.
- The federal government will provide \$675 million to support regional businesses, organizations, and communities.

Support for Early-Stage Businesses: The federal government will invest \$250 million in the National Research Council of Canada Industrial Research Assistance Program (NRC IRAP). NRC IRAP and Innovative Solutions Canada will launch calls for proposals to address certain challenges identified by the Public Health Agency of Canada and Health Canada. They will award Phase 1 funding to small and medium-sized businesses to develop proof of concept for their proposed solutions, and Phase 2 funding to businesses with the best concepts to develop working prototypes. It is expected that the federal government would then have the ability to purchase the product for use against COVID-19.

Support for Young Entrepreneurs: The federal government will provide \$20.1 million to Futurpreneur Canada, which will allow the organization to provide its clients with payment relief for up to 12 months. Futurpreneur Canada provides financing, mentorship, and support tools to aspiring entrepreneurs between 18-39 years old.

Support for Women Entrepreneurs: The federal government will provide \$15 million in funding through the Women Entrepreneurship Strategy Ecosystem Fund. The WES Ecosystem Fund helps address gaps and build capacity for women entrepreneurs. The support will be available to existing recipient organizations of the WES Ecosystem Fund.

Support for Indigenous Businesses and Aboriginal Financial Institutions: The federal government will provide up to \$306.8 million so that Aboriginal Financial Institutions can offer short-term, interest-free loans and non-repayable contributions to small and medium-sized First Nations, Inuit, and Métis Nation businesses.



Home



Summary



EMEA



AMERICAS



AP

Debt



Support for Scientific/Medical Researchers: The federal government will provide over \$1 billion towards a national medical research strategy to fight COVID-19, building on a previously-announced \$275 million investment in coronavirus research and medical countermeasures. The strategy will include:

- \$40 million for the Canadian COVID-19 Genomics Network to coordinate a COVID-19 viral and host genome sequencing effort
- \$23 million for the Vaccine and Infectious Disease Organization - International Vaccine Centre to support pre-clinical testing and clinical trials
- \$29 million for the National Research Council of Canada to begin the second phase of upgrades to its Human Health Therapeutics Facility, so that it is ready to produce vaccines for clinical trials
- \$600 million through the Strategic Innovation Fund to support private sector-led clinical trials and biomanufacturing
- \$10 million for a Canadian data monitoring initiative
- \$15.3 million to support the Canadian Immunization Research Network in conducting vaccine research and clinical trials
- \$114.9 million through the Canadian Institutes of Health Research to fund research projects.
- Over \$675,000 through the Stem Cell Network to support two research projects and one clinical trial.

Support for Research Staff: The government will provide \$450 million in funding to support Canadian researchers. The support will include: (i) wage supports to universities and health research institutes (up to 75% per individual, to a maximum of \$847/week); and (ii) funding to help universities and health research institutes maintain essential research activities and scale up to full operations once physical distancing measures are lifted (up to 75% of eligible costs, including safe storage of dangerous substances and restarting data sets interrupted by the pandemic). This funding will be available to universities and health research institutes that are normally eligible for funding through the Social Sciences and Humanities Research Council (SSHRC), the Natural Sciences and Engineering Research Council (NSERC), or the Canadian Institutes of Health Research (CIHR), but are ineligible for other COVID-19 emergency measures. The funding will be delivered as a block grant.

Business Credit Availability Program (BCAP): Through the BCAP, Export Development Canada (EDC) and the Business Development Bank of Canada (BDC) will provide \$65 billion in direct lending and other types of financial support to businesses whose access to financing would otherwise be restricted. Interested businesses should contact their financial institutions and the financial institutions will work with BDC or EDC to access the available resources, including:



Home



Summary



EMEA



AMERICAS



AP

Debt



- *Loan Guarantee for Small and Medium-Sized Enterprises:* The EDC will work with financial institutions to issue new operating credit and cash flow term loans of up to \$6.25 million to SME's. The EDC will guarantee 80% of the amount. The loans should only be used for operating expenses.
- *Co-Lending Program for Small and Medium-Sized Enterprises:* The BDC will work with financial institutions to co-lend loans to SME's to meet operational cash flow requirements. Eligible businesses may obtain incremental credit amounts of up to \$6.25 million. Businesses with revenues of less than \$1 million can receive up to \$312,500. Businesses with revenues between \$1 million and \$50 million can receive up to \$3.125 million. Businesses with revenues over \$50 million can receive up to \$12.5 million. 80% of the financed amount will be provided by the BDC, and 20% will be provided by the business' financial institution. These loans will be interest-only for the first 12 months and subject to a commercial interest rate. There will be a 10-year payment period. The support will be available until 30 September 2020.
- *BDC Mid-Market Financing Program:* Medium-sized enterprises (i.e., those with annual revenues of \$100 million or more) whose credit needs exceed what is currently available under the BCAP and other measures may apply for commercial loans between \$12.5 million and \$60 million. Further details are expected shortly.
- *EDC Mid-Market Guarantee and Financing Program:* Businesses with revenue between \$50 million and \$300 million will be eligible to participate in this program. The EDC will work with financial institutions to guarantee 75% of new operating credit and cash-flow loans ranging from \$16.75 million to \$80 million. Further details are expected shortly.
- *Canada Emergency Business Account:* Eligible small businesses and not-for-profit organizations can obtain interest-free loans of up to \$40,000 to help cover operating costs. The interest rate will be 0% until 31 December 2022. To qualify, applicants must demonstrate that they paid between \$20,000 to \$1.5 million in total payroll in 2019. If the loan is repaid by 31 December 2022, 25% will be forgiven. If the loan is not repaid by 31 December 2022, the remaining amount will become a 3-year term loan at 5% interest. On 19 May 2020, the government announced an expansion to the eligibility criteria to cover owner-operated small businesses. To qualify under the expanded criteria, applicants with payroll lower than \$20,000 would need to have: (i) a business operating account at a participating financial institution; (ii) a Canada Revenue Agency business number; (iii) filed a 2018 or 2019 tax return; and (iv) eligible non-deferrable expenses, including rent, property taxes, utilities, and insurance, between \$40,000 and \$1.5 million.
- *BDC Oil and Gas Sector Financing:* Canadian-based oil and gas producers, oilfield service companies, and midstream providers may be eligible for between \$12.5 million and \$60 million in financing for operational cash flow and business continuity. Further details are expected shortly.



Home



Summary



EMEA



AMERICAS



AP

Debt



Large Employer Emergency Financing Facility (LEEFF): Large for-profit businesses (other than the financial sector) and certain not-for-profit businesses with annual revenues of \$300 million or more may apply for bridge financing. Businesses must be seeking \$60 million or more, have significant operations in Canada, and not be involved in active insolvency proceedings. The federal government has announced that eligible businesses must: (i) demonstrate how they intend to preserve employment and maintain investment activities; (ii) commit to respecting collective agreements and pensions; (iii) comply with strict limits on dividends, share buy-backs, and executive pay; (iv) not have been convicted of tax evasion; and (v) commit to publishing annual climate-related disclosure reports. The federal government will also assess applicants' employment, tax, and economic activity in Canada, and its international organizational structure and financing arrangements, to determine if the business has engaged in "aggressive tax avoidance".

Relief for Federally Regulated Pension Plan Sponsors: The government will implement a moratorium on solvency payment requirements for defined benefit plans for the rest of 2020.

Canada Emergency Commercial Rent Assistance: The federal, provincial, and territorial governments have come to an agreement to implement a rental assistance program for small businesses. Under the CECRA, commercial property owners will be eligible for forgivable loans to cover 50% of April - June 2020 rent payable by eligible small business tenants. The loans will be forgiven if the property owner reduces the tenant's rent by at least 75% under a rent forgiveness agreement, which must include a commitment not to evict the tenant while the agreement is in place. The tenant would be responsible for the remainder of the rent, up to 25%. Property owners are eligible for the program if they: (i) own property that generates rental revenue, and on which the impacted tenants are located; (ii) declared rental income on their tax return for 2018 and/or 2019; and (iii) have a mortgage loan secured by the impacted property. Tenants are eligible for the program if they: (i) pay no more than \$50,000 per month in rent; (ii) generate no more than \$20 million in gross annual revenue, calculated on a consolidated basis; and (ii) have temporarily ceased operations or have experienced at least a 70% decline in pre-COVID-19 revenues, when compared to the same month in 2019 or the average revenues earned in January and February of 2020. The support will also be available to non-profit and charitable organizations. Applications will be accepted through the Canada Mortgage and Housing Corporation website beginning on 25 May 2020. The federal government has also announced that it will create an alternative mechanism for property owners who do not have a mortgage.

Insured Mortgage Purchase Program: The federal government will purchase up to \$150 billion of insured mortgage pools through the Canada Mortgage and Housing Corporation. The government has also relaxed rules for portfolio insurance so that certain previously-uninsured mortgage loans that were funded before 20 March 2020 are eligible for government-guaranteed mortgage insurance. These changes will remain in force until 31 December 2020.



Home



Summary



EMEA



AMERICAS



AP

Debt



Bank of Canada/Office of the Superintendent of Financial Institutions Actions:

- The OSFI will lower its Domestic Stability Buffer (DSB) requirement for domestic systemically-important banks by 1.25% of risk-weighted assets (i.e., reduced from 2.25% to 1%). The decrease of the DSB is intended to allow Canadian banks to supply over \$300 billion of additional lending to Canadian businesses and households.
- The Bank of Canada has lowered interest rates to support economic activity in Canada.
- The Bank of Canada has established several large-scale asset purchase programs to increase liquidity in core markets, including the Government of Canada Bond Purchase Program, the Canada Mortgage Bond Purchase Program, the Bankers' Acceptance Purchase Facility, the Provincial Money Market Purchase Program, the Provincial Bond Purchase Program, the Corporate Bond Purchase Program, the Commercial Paper Purchase Program, and the Contingent Term Repo Facility.
- The Bank of Canada has also taken action to assist individual financial institutions maintain liquidity, including creating a Standing Term Liquidity Facility and carrying out Term Repurchase Agreement Operations for 1-month or 3-month terms.

Support for Specific Industries:

Agribusiness/Food Producers:

- The federal government will provide \$50 million to farmers, fish harvesters, and food producers and processors (up to \$1,500 per employee), so that these employers can ensure that temporary foreign workers entering Canada comply with the mandatory 14-day isolation period.
- Farm Credit Canada will lend an additional \$5 billion to producers, agribusinesses, and food processors.
- The federal government will create a Canadian Seafood Stabilization Fund to provide \$62.5 million in support to the fish and seafood processing sector. The government expects that businesses will use the funds to pay for maintenance and inventory costs, add storage capacity, comply with health and safety measures, support new manufacturing/automated technologies, and adapt products to new requirements and market demands.
- The federal government will create a \$77.5 million Emergency Processing Fund to help food producers access more personal protective equipment, adapt to health protocols, modernize their facilities and operations, and respond to emerging pressures.
- The federal government will launch a national AgriRecovery Initiative of up to \$125 million to help producers (in particular, beef and pork producers and processors, as well as farmers and ranchers) faced with additional costs related to COVID-19.



Home



Summary



EMEA



AMERICAS



AP

Debt



- The federal government will increase the Canadian Dairy Commission's borrowing limit by \$200 million to assist with temporary storage costs for dairy products.
- The federal government is launching a Surplus Food Purchase Program, with an initial \$50 million fund, to help redistribute existing inventories.
- The federal government will work with provincial and territorial governments to increase payments made through the existing AgriStability program, which supports producers who face significant revenue declines. Interim benefit payment percentages for 2020 would increase from 50% to 75%. In addition, the federal government will work with provincial and territorial governments to expand the AgriInsurance program, which provides insurance protection and offers reinsurance to food producers to mitigate against production losses.
- The federal government will create a Fish Harvester Benefit program to provide up to \$267.6 million of income support to eligible self-employed fish harvesters and crew who cannot access the Canada Emergency Wage Subsidy. To be eligible, applicants must have experienced income declines of more than 25% in the 2020 tax year. The program will cover 75% of income losses over the 25% income decline threshold, up to the maximum individual entitlement under the CEWS.
- The federal government will create a Fish Harvester Grant program to provide up to \$201.8 million in grants to harvesters who are ineligible for the Canada Emergency Business Account or similar measures. Eligible participants (i.e., self-employed harvesters with a valid fishing license) would receive non-repayable support of up to \$10,000. The amount of support will depend on the harvester's historic revenue.
- The federal government is exploring changes to the Employment Insurance rules to allow self-employed fish harvesters and sharepersons to access benefits on the basis of earnings from previous seasons.

Transportation:

- The federal government will waive ground lease rents from March to December 2020 for 21 airport authorities, and will provide comparable treatment to PortsToronto for Billy Bishop Toronto City Airport.
- The federal government will provide \$17.3 million to the governments of the Yukon Territory, Northwest Territories, and Nunavut to support northern air carriers.



Home



Summary



EMEA



AMERICAS



AP

Debt



Cultural Organizations and Tourism:

- The Canadian Radio-television and Telecommunications Commission (CRTC) will not request payment for Part I license fees by broadcasters for the 2020-21 fiscal year. Instead, the federal government will pay an equivalent amount to the waived fees directly to the CRTC.
- The federal government will establish a \$500 million COVID-19 Emergency Support Fund to assist cultural, heritage, and sport organizations.
- The federal government will work with tourism operators to defer commercial lease and license of occupation payments until September 1, 2020.

Energy:

- The federal government will provide the provincial governments of Alberta, Saskatchewan, and British Columbia, as well as the Alberta Orphan Well Association, with up to \$1.72 billion to clean up inactive oil and gas wells, which will help maintain jobs in those provinces.
- The federal government will provide up to \$750 million to create a new Emissions Reduction Fund to support workers in the oil and gas sector, including \$75 million for the offshore sector. The funds will be used to support businesses' investments to reduce greenhouse gas emissions, with a particular focus on methane.
- In June, the federal government will accelerate \$2.2 billion in annual funding through the Gas Tax Fund. Recipient communities can use the funding for projects such as public transit, wastewater infrastructure, drinking water, solid waste management, community energy systems, local roads and bridges, capacity building, highways, local and regional airports, short-line rail, short-sea shipping, disaster mitigation, broadband and connectivity, brownfield redevelopment, culture, tourism, sport, and recreation.

(Note: The above summary sets out federal government interventions. Provincial and municipal governments are also implementing their own measures.)



To read more about this topic, please see this alert: [Rent relief is available for small business tenants through the Canada Emergency Commercial Rent Assistance portal](#)



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is state support for distressed business available?

There is both federal (across Canada) and provincial/territorial support, which varies across the country. The following is a summary of federal support programs as of 16 April 2020.

Wage subsidy

1. Canada Emergency Wage Subsidy (CEWS): This subsidy, available to employers of all sizes and across all sectors who have suffered a drop in gross revenues of at least 15% in March and 30% in April and May will cover 75% of an employee's wages up to CAD 847 per week. The CEWS program will run from 15 March to 6 June 2020.
2. Temporary Wage Subsidy: Qualifying employers¹ are eligible for a temporary wage subsidy for a period of three months (i.e., from 18 March 2020 to 19 June 2020). The subsidy is equal to 10% of remuneration paid during that period, up to a maximum subsidy of CAD 1,375 per employee and CAD 25,000 per employer.
3. Work-Sharing Program: Special measures have been adopted to assist employers when using the program, including, notably, the maximum duration of the program will be extended from 38 weeks to 76 weeks for employers affected by COVID-19.

Rent subsidy

1. Canadian Emergency Commercial Rent Assistance (CECRA): Announced on 16 April 2020, the CECRA program aims to provide rent support to small businesses impacted by COVID-19. While official details have not yet been released, the CECRA program is intended to provide loans (including forgivable loans) to property owners who, in turn, will lower or forgo rent for affected businesses for the months of April (retroactively), May and June.

Tax

1. The Canada Revenue Agency (CRA), the federal tax ministry, will allow all businesses to defer, until after 31 August 2020, the payment of any income tax amounts owed on or after 18 March 2020 and before 1 September 2020. This relief applies to tax balances due, as well as installments, under Part I of the Income Tax Act. No interest or penalties will accumulate on these amounts during this period.
2. For the vast majority of businesses, the CRA will temporarily suspend audit interaction with taxpayers and representatives.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



3. The CRA will allow all businesses (including self-employed individuals) to defer GST/HST payments and customs duties owed on their imports until 30 June 2020.

Credit financing and funding

1. The Business Development Bank of Canada (BDC) and Export Development Canada (EDC), both federal Crown financial institutions, will provide CAD 40 billion of support largely targeting small- (< 100 employees) and medium-sized businesses (< 500 employees) through the Business Credit Availability Program (BCAP). BDC and EDC will cooperate with private sector lenders to coordinate on credit solutions for businesses.
2. Small- and medium-sized enterprises unable to secure funding through the BCAP or wage subsidies through the CEWS may apply for funding under the newly implemented IRAP Innovation Assistance Program ran by the National Research Council of Canada.
3. Near-term credit available to farmers and the agri-food sector will be increased through the launch of Farm Credit Canada.
4. In order to support businesses, the minister of finance will be empowered to determine the limit of the Canada Account, which is administered by EDC, allowing the government to begin providing additional support to Canadian companies through loans, guarantees or insurance policies.
5. The federal government launched the Canada Emergency Business Account, which provides qualifying business owners with an interest-free, government-backed loan of CAD 40,000 for businesses that paid between CAD 20,000 and CAD 1.5 million in total payroll in 2019.
6. The Bank of Canada cut the interest rate to 0.25% on 27 March 2020 to support the Canadian economy.
7. The Office of the Superintendent of Financial Institutions, Canada's federal financial institutions regulator, lowered the Domestic Stability Buffer by 1.25% to 1% of risk-weighted assets, which will allow Canada's major banks to inject CAD 300 billion of additional lending into the economy.
8. The federal government will provide immediate and temporary relief for federally regulated defined benefit pension plan sponsors on solvency payment requirements for the remainder of 2020.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Market liquidity

1. The federal government launched the Insured Mortgage Purchase Program, consisting of a purchase of up to CAD 50 billion of insured mortgage pools through the Canada Mortgage and Housing Corporation, to provide long-term stable funding to banks and mortgage lenders, to help facilitate continued lending to Canadian consumers and businesses, and to add liquidity to Canada's mortgage market.
2. The Bank of Canada announced that it will implement various strategies, including:
 - a. adjusting its market liquidity operations to maintain market functioning and credit availability,
 - b. broadening eligible collateral for its term repurchase agreement to include the full range of collateral eligible under the Standing Liquidity Facility, with the exception of the non-mortgage loan portfolio
 - c. providing support to Canada's mortgage bond market, including purchases of such bonds in the secondary market.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Some protections have been extended to individuals (e.g., protection from eviction), but there are no formal restrictions on creditor actions against businesses.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

As of 16 April 2020, no COVID-19 related insolvency reforms are planned. To date, guidance from the insolvency regulator has been focused on measures to keep the insolvency system functioning during the closures caused by COVID-19.

Both the CCAA and the BIA were recently amended and the following noteworthy changes came into force on 1 November 2019:

- Require participants in insolvency proceedings to act in good faith.
- Provide for the possibility of the court-ordered disclosure of a creditor's real economic interest in an insolvent company.
- Explicitly permit management to consider the interests of workers and pensioners when fulfilling their corporate duties.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



- Impose director liability in appropriate cases for executive compensation payments in the year leading up to an insolvency.
- Limit the decisions that can be taken at the outset of a CCAA proceeding to measures necessary to avoid the immediate liquidation of an insolvent company (length of initial stay reduced from 30 to 10 days and limit relief to that which is reasonably necessary for the continued operations of the debtor company in the ordinary course of business).
- Exempt assets held in registered disability savings plans from creditor claims in bankruptcy.
- Extend current intellectual property (IP) license rights to insolvency scenarios such as bankruptcies, receiverships and asset sales where there is uncertainty in the law regarding the protections for IP licenses.

Equity

The Government of Canada announced on 20 May 2020 that it will offer loans to certain large corporations on a case-by-case basis for the next 12 months through its Large Employers Emergency Financing Facility ("LEEFF") program. Loans made through the LEEFF program to public corporations (or their subsidiaries) will be granted subject to such borrowers issuing warrants giving the Government of Canada the option of purchasing shares worth 15 per cent of the loan, or receiving the equivalent in cash.

The LEEFF program will be open to large for-profit businesses— with the exception of those in the financial sector— as well as certain not-for-profit businesses, such as airports, with annual revenues generally in the order of \$300 million or higher. To qualify for LEEFF support, eligible businesses must be seeking financing of \$60 million or more, have significant operations or workforce in Canada, and not be involved in active insolvency proceedings.

Additional conditions to receive LEEFF program loans may include that companies demonstrate how they will protect jobs and maintain their investment activities in Canada, that the salary of the executives of a borrowing company will be capped at \$1 million, and that recipient companies may be required to commit to publish certain annual climate-related disclosure reports.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate income tax

Payment Extensions: the federal government will allow taxpayers to defer the payment of all corporate income tax amounts and instalments owing on or after 18 March 2020 until 1 September 2020 without interest or penalties. This payment deferral only applies to tax amounts owing under Part I of the Income Tax Act, and not to amounts owing under other Parts, such as withholding tax on amounts paid to non-residents. Similar extensions have been granted by the governments of Alberta [1] and Quebec for provincial income taxes.

Filing Deadlines: the filing deadline for corporate tax returns due after 18 March 2020 and before 1 June 2020 is deferred until 1 June 2020. Corporations with calendar taxation years remain required to file their 2019 returns by the end of June 2020. The filing deadline for partnerships (T5013s) with a fiscal period ending on 31 December 2019 is deferred until 1 May 2020.

Beyond these extensions, taxpayers who are unable to file a return or make a payment by the applicable deadline due to COVID-19 can request the cancellation of penalties and interest under the taxpayer relief provisions. Such relief is subject to the discretion of the CRA.

Social security / Employment / Wage taxes / Personal Income Tax

The federal government has announced measures to support employers and workers including the following:

Canada Emergency Wage Subsidy: the Canada Emergency Wage Subsidy provides relief to eligible employers in respect of wages paid to eligible employees for the period from 15 March to 6 June 2020 (subject to a possible extension up to 30 September 2020). This period is divided into three eligibility periods: 15 March to 11 April, 12 April to 9 May, and 10 May to 6 June.

To be eligible, an employee must be employed in Canada. The subsidy will not be available in respect of employees who have been without remuneration for 14 or more consecutive days in the relevant eligibility period. The subsidy per eligible employee is generally equal to the greater of:

- i. 75% of remuneration paid, up to a maximum benefit of CAD 847 per week, and
- ii. the lesser of remuneration paid, up to a maximum benefit of CAD 847 per week, and 75% of the employee's pre-crisis remuneration (generally, the employee's average weekly remuneration paid between 1 January and 15 March 2020). Remuneration for this purpose excludes certain extraordinary amounts, such as stock option benefits. Special rules apply for employees that do not deal at arm's length with the employer. There is no limit on the total amount that eligible employers can claim. While not strictly required, employers are expected to make best efforts to "top up" employees' salaries to their pre-crisis amounts.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Eligible employers may also be entitled to a refund of 100% of employer paid contributions to Employment Insurance, the Canada Pension Plan, the Quebec Pension Plan, and the Quebec Parental Insurance Plan in respect of an eligible employee for a week throughout which the employee is on leave with pay.

Employers of all sizes are eligible to participate, provided they meet the remaining criteria. As a result, the program is available to sole proprietors, taxable corporations, certain partnerships, not-for-profit organizations, and registered charities. Public sector entities are excluded from the program.

To be eligible, employers must generally show a drop in revenue of at least 30% in the relevant eligibility period (15%, for the first eligibility period). This is generally determined month-over-month, by comparing revenue in the calendar month in which the eligibility period began over the same calendar month in 2019. Alternatively, employers may choose to use average revenue for the months of January and February 2020. This may be beneficial for new employers, employers in high-growth sectors, and employers who faced difficulties in 2019. If this alternative approach is adopted, it must be used for the entire duration of the program. Once an employer is determined to be eligible for a specific eligibility period, the employer will automatically qualify for the next eligibility period.

Revenue is generally gross revenue from ordinary activities in Canada derived from arm's length sources (excluding extraordinary items and amounts on account of capital), as computed using the normal accounting method for the business. Employers may use either the accrual method or the cash method, but must be consistent throughout the duration of the program. Special rules apply to employers who earn all or substantially all of their revenue from one or more non-arm's length entities where a joint election is made. In these circumstances, the subsidy may be available if, in general terms, the non-arm's length entity's arm's length worldwide revenue has dropped by the required amount. Where the employer's revenue is earned from more than one non-arm's length entity, there is a formula for determining whether there has been the requisite reduction in revenue. Alternatively, affiliated groups of eligible employers may jointly elect to compute their revenue on a consolidated basis.

Eligible employers will be able to apply through the CRA's [My Business Account](#) portal. The names of applicants may be published by the CRA. Applications must be made before October 2020. To apply, an employer must have had a CRA business number and payroll account as of 15 March 2020. More details about the application process will be made available shortly. The subsidy received by an employer will be included in the employer's taxable income.



Home



Summary



EMEA



AMERICAS



AP

Taxation

If the government later determines that an employer received the subsidy without meeting the eligibility conditions, the employer will be required to repay any amounts received. Penalties may apply in the case of fraudulent claims or abuse. In particular, employers that engage in artificial transactions to reduce revenue for the purpose of claiming the subsidy will be subject to a 25% penalty, in addition to being required to repay the subsidy. Employers should keep detailed records to substantiate amounts claimed.

Temporary Wage Subsidy: certain small business may qualify for a Temporary Wage Subsidy equal to 10% of the remuneration paid to individuals employed in Canada between 18 March 2020 and 19 June 2020 up to CAD 1,375 per employee, and CAD 25,000 total per employer. Eligible businesses include individuals (excluding trusts), certain Canadian-controlled private corporations, not-for-profit organizations, registered charities, and partnerships, all of the members of which would be eligible. Eligible businesses will receive this benefit as reduced payroll remittances. Employers are required to continue to remit Employment Insurance, Canada Pension Plan, Quebec Pension Plan, and Quebec Parental Insurance Plan contributions in full. The subsidy will be included in the employer's taxable income. To the extent an employer receives this subsidy, its Canada Emergency Wage Subsidy (if available) will be reduced.

Canada Emergency Response Benefit: the Canada Emergency Response Benefit supports workers meeting certain conditions who have stopped working as a result of COVID-19, such as those who i) are ill, quarantined or taking care of someone with COVID-19, ii) are away from work to care for children who require day care due to closures, iii) have been let go from their job or are not getting paid because there is not enough work, or iv) are self-employed individuals (including contract workers) who are without self-employment income. The benefit is generally not available to workers who are eligible for Employment Insurance. The benefit provides eligible workers with up to CAD 2,000 per 4-week period for up to 16 weeks. The benefit will be included in the worker's taxable income.

Work Sharing Program: The maximum duration of the Work-Sharing program has been extended from 38 weeks to 76 weeks for employers affected by COVID-19. This program provides income support to employees eligible for Employment Insurance who agree to reduce their normal working hours and share available work where there is a temporary decrease in work beyond the control of the employer. Employment Insurance benefits received by employees through the Work-Sharing program will generally reduce the Canada Emergency Wage Subsidy their employer may otherwise be entitled to.



Home



Summary



EMEA



AMERICAS



AP

Taxation

VAT

GST/HST: Businesses can defer GST/HST net tax remittances, as well as remittances of duties and taxes owed on imports, due on or after 27 March 2020 until 30 June 2020 without penalties or interest. The deadline for businesses to file their returns is unchanged; however, the CRA will not impose penalties for late filing, provided returns are filed by 30 June 2020.

Quebec has taken effectively the same measures for QST as the federal government has for GST/HST with respect to filing returns and making remittance payments (outlined above).

Ontario will not apply interest or penalties on late payments or filings, commencing 1 April 2020, for a number of provincial taxes until 31 August 2020, including, *inter alia*, employer health tax, mining tax, tobacco tax, fuel tax, gas tax, and insurance premium tax. Further, the employer health tax exemption for employers with Ontario payroll of less than CAD 5 million will be temporarily raised from CAD 490,000 to CAD 1 million of payroll for 2020.

British Columbia is extending filing and payment deadlines until 30 September 2020 for employer health tax, provincial sales tax (including municipal and regional district tax), carbon tax, motor fuel tax and tobacco tax. Implementation of previously announced measures in the British Columbia budget that would require non-residents to register for and collect provincial sales tax on certain e-commerce supplies effective 1 July 2020 will be delayed. Timing will be re-evaluated sometime before 30 September 2020. The implementation of BC PST on sweetened carbonated drinks was also previously planned for 1 July 2020, but will be subject to the same delay and future evaluation. Aligning the carbon tax rates with the federal carbon pricing backstop as previously announced in the budget is also postponed until further notice.

Saskatchewan is permitting businesses directly impacted by COVID-19 that are unable to file their Saskatchewan tax return(s) by the due date to submit a request for relief from penalty and interest charges on the affected return(s).[2]

Manitoba has extended PST and payroll tax (i.e., the health and post-secondary education tax levy) filing deadlines for small and medium-sized businesses with remittances of CAD 10,000 or less by up to two months. Previously planned measures to be implemented 1 July 2020, including a PST rate reduction (from 7% to 6%) and imposition of provincial carbon tax of CAD 25 per tonne, have been deferred to 2021.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Non-Resident Withholding Tax

The filing deadline for non-resident payment information returns (NR4s) has been extended until 1 May 2020. There is currently no relief proposed for non-resident withholding tax (Part XIII tax).

Employer Source Deductions

Relief for certain employer paid contributions to Employment Insurance, the Canada Pension Plan, the Quebec Pension Plan, and the Quebec Parental Insurance Plan may be available in respect of employees on leave with pay under the Canada Emergency Wage Subsidy.

Excise / Import duties

Certain tariff codes customarily subject to Non Automatic Import Licenses (e.g., disinfectants, cleaning and hygiene articles, chemical products, etc.), are currently subject to Automatic Import Licenses.

Other taxes

Temporary reduction (for a period of 90 days) of the tax rates applicable on the Tax on Debits and Credits on Checking Accounts and other Transactions for establishments and institutions engaged in the provision of health services.

The 0.60% rate has been reduced to 0.25%. In addition, the 1.20% has been reduced to 0.50%.

The Federal Tax Authority has extended (until 30 June 2020) the facilitating payments on tax, social security and customs debts set forth by General Resolution No. 4268/2018.

The Federal Tax Authority has extended (between 18 May 2020 and 22 May 2020) the term to file Transfer Pricing documents related to fiscal years closed between 31 December 2018 and 30 September 2019 (including).

Decree No. 330/2020 was published in the Official Gazette on 1 April 2020, extending until 30 April 2020 the deadline to repatriate 5% of foreign assets for purposes of being subject to the 1.25% Personal Assets Tax rate (and not to the aggravated 2.25% rate)

The deadline for remittances of the Alberta Tourism Levy due between 27 March 2020 and 30 August 2020 is deferred until 31 August 2020.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Comments

Electronic Signature Relief: the CRA will recognize electronic signatures on the forms used to authorize tax preparers to file taxes in an effort to reduce in-person meetings. Revenu Quebec has announced similar measures in respect of its authorization forms.

Audit Activity: CRA interaction on ongoing audits has been suspended for the "vast majority of businesses" and the CRA will generally not initiate any post assessment income tax or GST/HST audits for small or medium businesses for the next four weeks. The CRA may interact with taxpayers where the statutory time limit for reassessment is approaching or on "high-risk" GST/HST refund claims that require contact prior to payment. The extent of audit activity that large corporations will be subject to is currently unclear given the limitations on CRA personnel's ability to conduct audits remotely. The statutory deadlines for the assessment or reassessment of tax by the CRA have not been extended by Parliament.

Objections: the deadline for objections to tax assessments or reassessments due 18 March 2020 or later is extended until 30 June 2020.

Tax collections: the CRA has suspended all collection activities on new debts. Flexible payment arrangements and interest and penalty relief may be available at the CRA's discretion.

Courts: there are various court closures and extensions of filing deadlines that could potentially impact tax appeals. In particular, the Tax Court of Canada has suspended all sittings and conference calls until and including 1 May 2020.

Competent Authority: the competent authority services division continues to operate but personnel are working from home and dealing with information technology resource constraints. As well, given orders for non-essential personnel to remain home, there is currently no mail processing for this group. If taxpayers need to make a filing, they should contact CASD (MAP-APA/PAA-APP.CPB/DGPO@cra-arc.gc.ca) to determine alternative means for filing.



To read more about this topic, please see this alert: [CRA provides administrative relief for international tax issues arising from COVID-19 travel restrictions](#)



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

There is no foreign investment review regime.

Debt

Capital contribution of Chilean State Bank (*Banco del Estado de Chile*)

Law No. 21,225, published on 2 April 2020, authorizes the Minister of Finance to perform (within the next 12 months from 2 April 2020), and provides prior approval of the Chilean Commission for the Financial Market for, one or more capital contributions through one or more Decrees ("by order of the President of the Republic of Chile") to the Chilean State Bank (Banco del Estado de Chile) for a total aggregate sum up to USD 500 million. This measure will increase Banco Estado's credit capacity by approx. USD 4.4 billion.

State Guaranteed Loans Scheme and COVID-19 Credit Line to support companies

Chilean Government is working on a powerful guarantee scheme to provide credit for companies with annual sales of up to UF 1 million (approx. USD 33,610,366). This measure seeks to give liquidity to 99.8% of companies, which provide 84% of employment, to cover their working capital needs during this emergency (e.g., payment of salaries, rent, supplies and others). To this end, State guarantees offered for loans from banks to companies will be enhanced, creating, in addition, a new liquidity line: COVID-19 Line of Credit.

Raising of additional funds and liquidity to enhance the different measures being implemented

Law No. 21,225, published on 2 April 2020, authorizes the President of the Republic of Chile to contract obligations, during 2020, in the country or abroad, in national currency or in foreign currencies, up to the amount of USD 4 billion.

Solidarity Fund

The Government announced the creation of a Solidarity Fund of USD 100 million destined to attend social emergencies derived from the drops in sales of the local micro-commerce. It is planned that these funds will be channeled through the municipalities.

Debt

Regulatory exceptions for the accounting provisions performed by banks, cooperatives of saving and credit, administrators of endorsable mortgages and insurance companies

The Commission for the Financial Market, permitted the constitution of accounting provisions linked to the extension of the installments/dividends payment schedule for mortgage, commercial and consumer loans, encouraging the lending institutions to reschedule the payment obligation of their debtors.

Insolvency



Is state support for distressed business available?

Liquidation proceedings: Yes, the state offers support to companies in difficulties, with a focus on trying to avoid the initiation of liquidation and reorganization proceedings, helping the companies' liquidity and solvency. Some of the measures adopted by the government to this date are the following:

- Financing lines with state guarantees have been increased, which will allow Chilean banks to finance loans to companies for up to USD 24 billion in total (with a state guarantee of US 3 billion to those loans), which is equivalent to increasing the lines currently available by 20 times. The new line of credit with a state guarantee will limit the extraordinary credit risk generated by the state of emergency and will facilitate the conditions for banks to lend working capital to companies, for a period of up to 48 months, with a grace period of up to six months and for an equivalent amount of up to three months of sales.
- Banks that lend these resources to the benefited companies, with state guarantees, must reprogram all the preexisting credits of the benefited debtor and postpone any amortization of their old credits until the new loans are fully paid.
- Tax measures have been set forth that are focused on providing liquidity to small and medium size enterprises (SMEs), allowing them to respond to their financial obligations in the next months, with the purpose of preventing them from falling into bankruptcy.
- Labor measures have been taken that focus on maintaining the employment relationship with the possibility of suspending the salary to employees, until the company recovers its previous activity levels, enabling the possibility of teleworking, in some cases. The payment of salaries will be made by using funds from unemployment insurance.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Reorganization proceedings: Yes, the state offers support to companies in difficulties, with a focus on trying to avoid the initiation of liquidation and reorganization proceedings, helping the companies' liquidity and solvency. Some of the measures adopted by the government are the following:

- Financing lines with state guarantees have been increased, which will allow Chilean banks to finance loans to companies for up to USD 24 billion in total (with a state guarantee of US 3 billion to those loans), which is equivalent to increasing the lines currently available by 20 times. The new line of credit with a state guarantee will limit the extraordinary credit risk generated by the state of emergency and will facilitate the conditions for banks to lend working capital to companies, for a period of up to 48 months, with a grace period of up to six months and for an equivalent amount of up to three months of sales.
- Banks that lend these resources to the benefited companies, with state guarantees, must reprogram all the preexisting credits of the benefited debtor and postpone any amortization of their old credits until the new loans are fully paid.
- Tax measures have been set forth that are focused on providing liquidity to small and medium size enterprises (SME), allowing them to respond to their financial obligations in the next months, with the purpose of preventing them from falling into bankruptcy.
- Labor measures have been taken that focus on maintaining the employment relationship with the possibility of suspending the salary to employees, until the company recovers its previous activity levels, enabling the possibility of teleworking, in some cases. The payment of salaries will be made by using funds from unemployment insurance.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Liquidation proceedings :Regarding the forced liquidation procedure, there is still no bill that modifies or restricts the creditors' right to request the mentioned procedure. However, some special measures have been introduced to carry out the liquidation, such as flexibility in the majority rules for the adoption of agreements, the possibility of hearings being held through videoconferences or some form of recognized electronic voting, the limitation to the execution of guarantees, the promotion of bankruptcy arbitration for the supposedly most complex cases (such as large companies, especially strategic ones), among others.

There is no legislative project, but under comparative law, in the near future, it would be sought to legislate regarding the right of creditors to request the procedure of forced liquidation in consideration of the current contingency, seeking to avoid the bankruptcy of companies that may become viable again.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Reorganization proceedings: As it is a voluntary procedure, only the will of the debtor company matters, excluding the crediting of the will of the creditors at the beginning of the procedure. Consequently, no type of modification or restriction has been made to the actions of the creditors, but temporary measures have been implemented to carry out the procedure.

Temporary measures consist of making the majority rules more flexible for the adoption of reorganization agreements, the possibility of hearings through videoconferences or the recognition of some form of electronic voting, facilitating extrajudicial or simplified reorganizations, limiting the termination of essential contracts (such as the lease or provision of basic services) or the execution of guarantees, among others.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Liquidation proceedings: Yes. There is a bill, initiated by the President of the Republic, that establishes measures to boost productivity and entrepreneurship, and that establishes a series of measures and modifications to the Bankruptcy Procedures Law.

The modifications consist mainly of:

- the adapting of current regulations to technological advances, making the procedure more efficient,
- the modification of the concept of "debtor company" to prevent it from being understood by natural persons who issue fee invoices, coming to be understood within the category of "debtor person",
- the incorporation of the concept of a smaller company,
- the establishment of a higher liability standard when a creditor requests forced liquidation of a company .

Reorganization proceedings: Yes, there is a bill, initiated by the President of the Republic, that establishes measures to boost productivity and entrepreneurship, and that establishes a series of measures and modifications to the Bankruptcy Procedures Law.

- The modifications consist mainly of:
- the adapting of current regulations to technological advances, making the procedure more efficient,
- the modification of the concept of "debtor company" to prevent it from being understood by natural persons who issue fee invoices, coming to be understood within the category of "debtor person",
- the incorporation of the concept of a smaller company,



Home



Summary



EMEA



AMERICAS



AP

Insolvency



- the establishment of the maximum amount of the vendor's fees in cases where the debtor company is a smaller company. An exception has also been established to the requirement of the reorganization resolution issued by the competent court, regarding the seller's fees when the debtor company is a smaller company.
- the ability of the debtor company to submit the information regarding its creditors by means of an affidavit if the debtor company qualifies as a smaller company,
- the fostering of efficiency in the activity of the organs of the State administration, specifically the Superintendence of Insolvency and Re-entrepreneurship, in its relationship with individuals.

Equity

No (semi-) equity measures have been announced.

Taxation

Corporate income tax

Postponement, until July 2020, of the payment of the annual income tax bill for SMEs (originally due in April 2020).

Suspension of monthly income tax provisional payments for a period of 3 months (until 30 June 2020).

Certain expenses associated with health contingency activities will be accepted as allowable tax deductions (e.g., expenses related to certain medical exams, implementation of remote working accommodations, and acquisition of hygienic supplies).

On 31 March 2020, the IRS initiated the process of consultation of the public ruling regarding the deduction of expenses related to COVID-19 (until 15 April 2020). The bill of public ruling allows the deduction of all expenses that attempt to avoid the expansion of COVID-19, as well as expenses incurred in favor of enterprises, with the purpose of maintaining the business, such as strategic business plans, remuneration and support plans of employees, as well as customer loyalty programs.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Social security / Employment / Wage taxes / Personal Income Tax

No specific measures have been adopted.

VAT

Postponement of VAT payment for a period of three month applicable to enterprises with 2019 sales not exceeding approx. USD 11.35 million. Applicable entities are entitled to pay VAT in up to 12 monthly installments at a 0% interest rate.

Excise / Import duties

No specific measures have been adopted.

Other taxes

Postponement of the first installment of real estate tax (originally due April 2020) for enterprises with sales not exceeding approx. USD 11.35 million in 2019, and for individuals owning real estate that do not exceed USD 150,000 of fiscal value. Payment of this installment may be made during calendar year 2020, with a 0% interest rate.

Transitory reduction of stamp tax to 0%, for all credit operations taking place in the next six months (effective as of April 2020).

Greater flexibility to enter into payment agreements of fiscal debts with the National Treasury (interests and fines will not applied) and transitory suspension of judicial collection measures of tax debts.

Comments

The Supreme Decree published on 1 April 2020 extends the term for taxpayers to opt to any of the new tax regimes stated by the Tax Reform Act. This term initially expires on 30 April 2020. The term was extended to 31 July 2020.



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

There are no new restrictions on foreign investment into Colombia.

Debt



Emergency Mitigation Fund

The Colombian President decreed the existence of a national emergency situation due to the pandemic which allows it to issue rules having the force of law. Under these rules, it incorporated an Emergency Mitigation Fund ("FOME" for its acronym in Spanish) to provide liquidity to the market. The FOME will be funded with loans granted by the Tax Stabilization and Savings Fund, by the Territorial Pension Funds and by the Occupational Risk Fund. These resources will be used to meet the liquidity needs of the governmental entities, to finance or invest in capital or debt instruments issued by private, public or mixed companies that carry out activities of national interest and to grant liquidity support to the public and private financial sectors.

New credit lines

The Government also allowed certain governmental financial entities that usually act as rediscount banks, to grant loans directly. These entities are also offering special credit lines to deal with the liquidity issues derived from the pandemic and the mandatory confinement order by the Colombian government, currently extended until 27 April. Through this special lines, a total of COP \$1.325 billion (approx. USD 5,180,750,000.000.000) will be released to grant loans.

National Guarantee Fund

The Colombian government is optimizing its assets. As part of this strategy, dividends and liquidity excess of certain governmental institutions will be used to capitalize the National Guarantee Fund, a Colombian governmental entity that provides guarantees to secure loans. By this means, it intends to enhance the access to financing for the general public. Under the new measures, the Colombian government will cover up to 75% of the cost of the premium payable to the Fund that will be exempted of VAT; also, the guarantee will secure up to 80% of principal.



Home



Summary



EMEA



AMERICAS



AP

Debt



Update 7 May: this guarantee program will now have an amount of COP \$15 billion (approx. USD 3,713,790.542.213) and it will be composed of two new credit lines directed to finance: (i) payroll of small and medium businesses – guaranteeing up to 90% of principal – and (ii) independent workers – guaranteeing up to 80% of the principal.

Flexibility of credit operations for state entities

The Colombian Government also relaxed the requirements for state entities to obtain financing and allowed to pay short term debt with additional debt up to certain thresholds.

Besides that, a new Decree was issued by the government establishing more flexible measures so that territorial entities can solve their liquidity issues. Among the main points of the Decree are:

1. It allows territorial entities and their decentralized entities to contract treasury credits with financial entities to attend to temporary cash shortages in both operating and investment expenses
2. They may also hold economic reactivation credits, provided that their debt balance / income ratio does not exceed 100% and it is not necessary to verify compliance with the interest / operational savings ratio. If new credit exceeds this limit, authorization from the Ministry of Finance is not required, but the entity must demonstrate that it has a low credit risk rating.
3. Territorial entities that have achieved coverage equal to or greater than 80% of their pension liabilities in the central sector, may request resources that exceed this percentage to attend to the crisis.

Relief measures to strengthen formal employment

The government created the Formal Employment Support Program - PAEF, through which legal persons (and now also natural persons, who have at least three employees, consortiums and temporary unions), will be able to receive a monthly monetary contribution of a state nature, and up to three times, in order to support and protect the country's formal employment. To be able to access the PAEF, in the case of legal entities they must: (i) have been established before 1 January 2020; (ii) have a commercial registry that has been renewed at least in 2019; (iii) demonstrate the need for the contribution, certifying a decrease of 20% or more in their income; (iv) not having received said contribution on three occasions and (v) not having been obliged to refund the state contribution. Regarding the amount of the contribution, this will correspond to the number of employees multiplied by up to 40% of the value of the current legal monthly minimum wage.



Home



Summary



EMEA



AMERICAS



AP

Debt



Relief measures for debtors

The Financial Superintendence of Colombia issued certain instructions to financial entities (public and private sector) in case they decide to modify loans in general to grant certain reliefs (it is not mandatory). As part of these instructions, such modifications cannot, among others: (i) increase the interest rate; (ii) collection of interest on interest; (iii) charge interests over other concepts such as insurance or management fees.

International Monetary Fund and the Inter-American Development Bank

The International Monetary Fund has renewed the Colombian government Flexible Credit Line equal to about USD \$10.8 billion. This credit line, has three main characteristics: (i) its contingent; (ii) the resources are available immediately and (iii) its a non-conditional instrument. On the other hand, the Inter-American Development Bank also granted Colombia a loan of approx. USD \$1.150 million.

New obligations to banks

Banks and other financial institutions are obliged to invest in internal public debt securities issued by the Colombian government with the intention of funding FOME.

For this purpose, the minimum reserves (encaje) that banks must maintain in the Central Bank were reduced.

In this sense, the government issued a Decree ordering the issuance of debt securities for up to COP \$ 9.811.300.000.000 (approx. USD 2, 476,975,511).

As a result of the above, the Nation has successfully placed COP \$255 billion in Treasury Securities (TES) in the Colombian stock market.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is state support for distressed business available?

Yes.

Decree 468 of 2020, issued by the Ministry of Finance and Public Credit, established the ability of Financial Institution for Development S.A. (Findeter) and of the Bank of Foreign Trade S.A. (Bancoldex) to grant direct loans with a lower interest rate to eligible economic sectors.

Under Decree 560 of 2020, there are some tax reliefs regarding income taxes for companies under reorganization.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

1. There is a short moratorium for payment obligations of reorganization agreements underway, covering April, May and June 2020. Those obligations shall be deemed outstanding from July 2020.
2. Under Decree 560 of 15 April 2020, once a request for admission into reorganization is submitted, the debtor may be authorized by the bankruptcy court to prepay external labor and suppliers' liabilities not exceeding 5% of its absolute external liabilities, for which purpose, the debtor may, without prior authorization, dispose of any non-operational fixed asset whose amount does not exceed the overall value of the prepayment.
3. A debtor-in-possession is authorized to apply for loans aiming at preserving the business, without prior authorization of the bankruptcy court.
4. A debtor-in-possession is authorized to constitute loan-related securities over estate assets even if other creditors had already been secured with those assets. This shall be authorized by the bankruptcy court and shall not diminish or affect pre-existing secured creditors.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

On 15 April 2020, new insolvency rules were enacted to mitigate the economic effects of COVID-19 (Decree 560/ 2020)



Home



Summary



EMEA



AMERICAS



AP

Equity

To ensure the continuity of companies providing services of national interest including, among others, health, public services, food production, hygiene products, the National Government issued Decree 444 of 2020, creating the Emergency Mitigation Fund (FOME). The FOME's funds can be invested to acquire, among other things: (i) shares (equity) with special participation conditions, e.g., buybacks and preferential dividends, among other privileges; or (ii) debt instruments (semi-equity) of public, private or mixed companies providing services of national interest, which have been severely affected by the health crisis.

The Ministry of Finance will determine the specific equity and semi-equity investments that can be made with the FOME's funds. The decision to make any of the equity or semi-equity investments referred to herein shall be analyzed by the Ministry of Finance, taking into account the consequences of the economic and social crises generated by COVID-19. The Colombian government has not yet announced how and in what specific circumstances companies can request an equity or semi-equity investment so there is currently no procedure in place to access such measures.

Taxation

Corporate income tax

For large taxpayers, the deadline to pay the second installment of the income tax is extended to 21 April and 5 May 2020, depending on the last digit of the taxpayer's ID (NIT). The second installment shall be equal to the 45% of the total value of the income tax paid last year. The income tax return filing schedule and to pay the third installment is extended to 9 June and 24 June 2020, depending on the last digit of NIT.

For other taxpayers, the deadline to pay the first instalment of the income tax, which shall be equal to the 50 % of the tax paid in 2018, is extended to 21 April and 19 May 2020, depending on the last two digits of the NIT. The income tax return filing schedule and to pay the second installment is extended to 1 June and 1 July 2020, depending on the last two digits of the NIT.

Only for taxpayers classified as micro-, small and medium sized enterprises the deadline to pay the second installment of the income tax is extended to the period between 9 November and 7 December 2020, depending on the last two last digits of the NIT.

From 15 April to 31 December 2021, taxpayers that make new investments equal or greater than 2 million tax value units ("TU") in the national aeronautical industry, can benefit from the mega-investment project incentive regime established in Law 2010 of 2020. The regime provides for a reduced 27% corporate tax rate and exemptions from dividends tax, net worth (equity) tax and from applying the presumptive income system, among others.

New tax benefits have been created for entities involved in insolvency.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Social security / Employment / Wage taxes / Personal Income Tax

Taxpayers engaged in certain economic activities (i.e., restaurants and tourism) are not required to pay payroll taxes to the Family Compensation Bureau, National Apprenticeship Service -"SENA", and the Colombian Family Welfare Institute -"ICBF"

The quotations to the Social Security System will be reduced to 3% between 17 April and 30 May 2020. Employers shall pay 75% of the quotations and employees shall pay the remaining 25%.

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VAT

For certain businesses, an extended deadline applies for VAT payment for the March to April period, and for taxpayers following a four-month period, covering January-April. The extended deadlines apply to taxpayers engaged in certain economic activities (i.e., ready-to-eat meals, cafeterias, hotel service companies, live entertainment activities and commercial airlines).

Certain medical equipment such as nebulizers, vital sign monitors, and oxygen have shall be exempt from VAT, during the period 17 March to 17 April 2020.

Fees paid to the National Royalties Fund for rendering warranty services in order to provide coverage related to COVID-19 effects shall be exempt from VAT-tax. (these fees shall also be subject to a 4 % withholding tax rate).

The entities involved in insolvency procedures are entitled to the tax benefit of reduction to 50 % of the VAT-withholding rate, between 15 April and 31 December 2020.

Gifts of goods for human use to prevent and stop the spread of COVID-19 shall not be subject to VAT.

Between 15 April and 31 December 2021, VAT rate shall be reduce to 5 % for passengers air transport services and aviation gasoline "Jet A1" or "AVGAS".

Until 13 August 2020 mobile phone voice and internet plans up to 2 tax value units (COP 71,214) shall be exempt from VAT.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Excise / Import duties

For a period of 6 months, all custom duties will be reduced to 0 % for imports of certain devices, medicines and medical equipment and for certain goods used in the air travel industry.

For a period of 6 months, the exportation of 24 different products required to prevent the spread of COVID-19 will be prohibited. This includes items such as soap, antibacterial gel and special mask.

Other taxes

Extension (until 29 July 2020) of the deadline to file the tourism contribution form and for payment of the first quarter of 2020

The Bogota District Tax Authority has extended the deadline for payment of real estate tax until 5 June 2020 for taxpayers interested in gaining a 10% reduction of the tax.

The Colombian Tax Authority (DIAN) has extended the deadline to submit exogenous information required by law in magnetic media. For Major tax payers, the deadline was extended to the period between 9 June and 24 June 2020, depending on the last digit of the NIT; For individuals and legal entities, the deadline was extended to the period between 1 June and 1 July 2020 and for entities which entered into cooperation and technical assistance agreements with international organizations, the deadline was the last working day of April 2020.

Between 1 May and 31 July 2020, all public officers and pensioners with salaries or pensions equal to COP 10 million or higher shall pay the new solidarity tax due to COVID-19. Said individuals will be taxed by means of a withholding tax.

Therefore, all public entities must act as withholding agents and apply the corresponding "new solidarity tax" withholding rate (10%, 15% or 20% depending on the value of the salary or pension). The new tax has to be withheld at the moment of payment or when the income is accrued, whichever occurs first. The first COP 1,800,000 of the salary/pension shall be exempt from the new solidarity tax.

Comments

- DIAN has suspended all legal terms and deadlines for all of its procedures between 19 March and 3 April 2020. However, DIAN shall provide virtual assistance to assist taxpayers with registering before the Colombian Tax Registry or updating the tax information of the taxpayers.
- The Bogota District Tax Authority has suspended all legal terms and deadlines for all of its procedures between 26 March and 13 April 2020.



Home



Summary



EMEA



AMERICAS



AP

Taxation

- Judicial terms are suspended nationwide between 16 March and 3 April 2020.
- National Government has authorized governors and local majors to redirect or modify specific destination revenues derived from subnational taxes and to carry out any public debt operation needed to address the health emergency.
- The Colombian Tax Office has issued the requirements for taxpayers to apply for tax payment arrangements set forth by Law 2010 of 2019.
- The Colombian Tax Office has established an abbreviated procedure to request tax refunds. The request may be submitted in the technological platform or by e-mail. It is unnecessary to attach a statement on costs, expenses and deductions. For taxpayers not considered high-risk, the reimbursement and/or refund will be authorized 15 days after the application was filed.
- Tourism tax. Companies that regularly provide international passenger transport services will have until 30 October 2020 to file the tax return and pay the corresponding tax for the first and second quarter of 2020.



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

To date, Mexico has not made any specific change to the foreign investment regime due to the pandemic.

Debt

No legislation or plans have been approved to date.

Insolvency



Is state support for distressed business available?

Yes. Federal and local governments have issued their own support programs for medium and small businesses to face the COVID-19 health emergency.

Among those support programs are:

- i. "Crédito a la Palabra," a program to provide funding to micro and small businesses to support their operations and employees. This includes support of MXN 25,000 to be paid over a three-year period.
- ii. "Apoyos a empresarios solidarios," the Mexican Institute of Welfare will aid employers to pay salaries with a reduction of rates.
- iii. Bank of Mexico (Banxico) reduced its interest rate to 6.5% (a 50-point reduction) and will inject up to MXN 750 billion into the banks, with the aim of these resources being provided to companies and individuals.
- iv. Mexican Tax Administration Service (SAT) extended the period for the filing of tax declarations of individuals until 30 June (the original deadline was in April).



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Not as public policy; however, under Mexican Law force majeure may constitute a release of liability for the parties.

However, to fully prove the existence of force majeure, the claiming parties must demonstrate that the situation was (i) external; (ii) unsurpassed; (iii) unpredictable; (iv) inevitable; and (v) beyond the control of the parties.

In accordance with Decree 8/2020 issued by the Federal Judicial Council on 27 April 2020, although all judicial activities and terms are suspended, any proceedings related to interim measures in bankruptcy proceedings are considered as "urgent matters" and therefore applications on this matter should be resolved.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

No. The last amendment was enacted on 22 January 2020.

Taxation

Corporate income tax

No federal tax relief measure, incentives, or supporting programs have been issued.

Regular filing date for annual tax returns is in place.

Social security / Employment / Wage taxes / Personal Income Tax

No special relief measures announced to date. It is advisable to continue to monitor for any announcements.

VAT

No tax relief measures have been issued to date.

Excise / Import duties

No special or relief measures have been imposed. The General Customs Administrator has announced that currently all customs houses in Mexico will continue to operate as per standard practices.

Documents and information to be filed as part of an anti-dumping investigation may be submitted electronically via e-mail.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Excise / Import duties

No special or relief measures have been imposed. The General Customs Administrator has announced that currently all customs houses in Mexico will continue to operate as per standard practices.

Documents and information to be filed as part of an anti-dumping investigation may be submitted electronically via e-mail.

Other taxes

Certain States are providing a suspension or extension in the deadlines to comply with certain tax ancillary obligations.

Certain States are launching programs to support small and medium size companies to obtain financing as a measure to prevent lay-offs and preserve jobs.

General comments

As of the current date, the federal government has not approved any tax measures or other incentives to taxpayers, companies or individuals.

However, certain incentives have been announced a from local governments covering measures such as property tax, payroll tax, accommodation related to industries such as services, games and raffles (incl. disbursements for bets), payment of tenure, etc. deferring required payment until April, May and June 2020.



To read more about this topic, please see this alert: [SAT extends deadline for Mexican individuals to file 2019 annual tax return](#)



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

COVID-19 has not had an impact on foreign investment rules.

Debt

The government has announced and is implementing an economic stimulus and support plan, equivalent to approximately 12% of 2019 GDP, to address and mitigate the negative impact of the COVID-19 outbreak on the population and on economic activity. This plan is focused on mitigating the impact on employment and public health and minimizing the impact on the economy, including the production of essential goods. To achieve this goal, tax and public spending tools have been deployed, as well as other liquidity measures related, for example, to increased access of citizens to private savings and Public Treasury guarantees for loans to companies to support working capital needs.

Measures to provide financial support to families

- Payment of a S/380.00 subsidy in the form of direct payments to households at or below the poverty level and to self-employed workers. These payments were administered by Banco de la Nación and processed with support of local banks. Eligible recipients were identified by reference to data available from the public health and welfare authorities regarding the neediest households.
- Access to liquidity for families, including by allowing workers to request early withdrawals from their (i) Compensation for Length of Service (CTS for its acronym in Spanish) accounts in an amount of up to S/2,400.00 and (ii) and pension fund accounts in an amount of up to S/2,000.00. Ability to withdraw up to S/2,400.00 from the Compensation for Length of Service account will provide Peruvian households access to liquidity of approximately S/4,400 million. In addition, the withdrawal of up to S/2,000.00 of the funds available in an individual's Private Pension Funds account will benefit workers who have been unemployed for at least six months. This measure will benefit approximately 3.8 million Peruvians, of which it is estimated that approximately 1.4 million citizens will be able to withdraw 100% of their funds, equivalent to approximately S/4,500 million of available funds to households. There is currently legislation that has been approved by Congress that would allow individuals to withdraw of up to 25% of the amount in their Private Pension Fund account. For further details, see "Measures taken by Congress".



Home



Summary



EMEA



AMERICAS



AP

Debt

- Exemption for companies from the mandatory withholding of contributions to private pension funds for the month of April (representing 10% of a worker's compensation). This measure would inject S/1,100 million of liquidity into Peruvian households.

Measures to support companies

- Tax incentives to provide liquidity to micro and small companies, such as the early release of funds from committed lines of credit, tax payment deferrals or extensions until June 2020, and suspension of default interest payments.
- Public spending, including payroll subsidies and the creation of the Business Support Fund.
- Creation of the Reactiva Perú Program pursuant to Legislative Decree No. 1455, under which the Government aims to promote commercial banks to make available new financings to companies and providing a Government guarantee for such, up to an aggregate principal amount of S/30,000 million, to provide working capital to such companies to support employment and ensure availability of funds and stability of payment systems within the Peruvian economy.

Measures taken by the Central Bank

- Modifying the limit for swap and forward operations for the sale of foreign currency in exchange for local currency from U.S.\$575 million per week to U.S.\$675 million per week per financial institution, without requiring additional reserves, in order to support foreign exchange hedges.
- Reducing the reference interest rate by 100 basis points from 2.25% to 1.25%.
- Reducing the minimum legal reserve requirement in soles from 5% to 4%.
- Decreasing the minimum current account requirement in soles from 1.0% to 0.75% of the obligations subject to reserve requirements.
- Reducing the reserve requirement from 50% to 9% for obligations in foreign currency with average terms equal to or less than two years entered into with foreign financial entities.
- Suspending the additional reserve requirement associated with lines of credit in foreign currency for the remainder of 2020.
- Approving a new liquidity instrument to provide access to funds for financial entities, consisting of repurchase operations using Peruvian government guaranteed loans as collateral.



Home



Summary



EMEA



AMERICAS



AP

Debt

Measures taken by the Superintendency of Banks, Insurance and Pension Funds

- Authorizing financial institutions to adopt exceptional measures and make modifications to existing credit agreements or rescheduling of maturities so that debtors can meet payment obligations.
- Expansion of allowed monetary limits per se operation (wire transfers, conversion payments, among others) to be carried out through electronic money accounts.
- Procedures for managing extraordinary withdrawals from pension fund accounts set forth in the Supreme Decree No. 034-2020 (threshold of S/2,000).

Finally, the current COVID-19 pandemic and its potential impact on the global economy may require the Peruvian Government to adopt additional changes in existing regulations or implement more stringent regulations, which may further adversely impact Peru's economy, the prices of and Peru's ability to make payments on its outstanding securities or other indebtedness.

Insolvency



Is state support for distressed business available?

Preventive insolvency proceedings: Reactiva Perú Program: Businesses with certain risk ratings and without material tax debts (in the process of collection) can obtain private banking loans of up to PEN 10 million, secured by the government (coverage between 80% and 98% depending on the amount of the loan), to address short-term payments and obligations with their employees and suppliers.

In case of insolvency and foreclosure of the guarantee, the debt before the government would not be part of the insolvency proceedings .

Ordinary insolvency proceedings: Reactiva Perú Program: Businesses with certain risk ratings and without material tax debts (in the process of collection) can obtain private banking loans of up to PEN 10 million, secured by the government (coverage between 80% and 98% depending on the amount of the loan), to address short-term payments and obligations with their employees and suppliers.

In case of insolvency and foreclosure of the guarantee, the debt before the government would not be part of the insolvency proceedings.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Preventive insolvency proceedings: No.

Ordinary insolvency proceedings: No.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Preventive insolvency proceedings: The Congress of Peru delegated legislative powers to the executive for 45 days so it could issue regulations related to the bankruptcy system to reduce the impact of COVID-19 and to promote economic recovery. No regulations have yet been issued .

Ordinary insolvency proceedings: The Congress of Peru delegated legislative powers to the executive for 45 days so it could issue regulations related to the bankruptcy system to reduce the impact of COVID-19 and to promote economic recovery. No regulations have yet been issued.

Equity

No (semi-) equity measures have been announced.

Taxation

Corporate income tax

- Taxpayers that obtained revenues of up to 5,000 Tax Units (approx. USD 6,000,700) during tax year 2019 may postpone the filing of the 2019 annual income tax return.
- Taxpayers that obtained revenues of up to 2,300 Tax Units (approx. USD 2,763,000) during tax year 2019 may postpone the filing of the monthly income tax return of the period February 2020.



Home



Summary



EMEA



AMERICAS



AP

Taxation

- Taxpayers that obtained revenues of up to 5,000 Tax Units (approx. USD 6,010,000) during tax year 2019 may postpone the filing of the monthly income tax return of the periods from March to July, 2020.
- Suspension or reduction of Monthly Advanced Income Tax payments corresponding to periods from April to July 2020, provided specific conditions are met.
- The requirements for the deductibility of expenses due to the loss of inventories for Income Tax purposes has been simplified. In this sense, the deadline for the communication of destruction to SUNAT, as well as for the submission of the report that supports the destruction, have been modified.
- Tax loss carry-forward period was extended for corporations. This exceptional extension will only apply to tax losses generated during fiscal year 2020 and to taxpayers that chose the tax loss carry forward system under which tax losses can be carried forward for 4 fiscal years (System A). With this new extension, taxpayers will be able to carry forward any tax losses for fiscal year 2020 for five fiscal years (i.e., until 2025).
- New accelerated depreciation rates for certain assets will apply since fiscal year 2021: 1) Data processing equipment purchased in 2020 or 2021: 50% per year; 2) Machinery and equipment purchased in 2020 or 2021: 20% per year; 3) Land vehicles used in passenger transport: 33.3% per year (with certain exceptions and conditions) and 4) Hybrid or electric land transport vehicles (except rail): 50% per year.
- With respect to hotels, travel agencies, restaurants and other tourism businesses, additional depreciation rules were enacted.

Social security / Employment / Wage taxes / Personal Income Tax

- Taxpayers that obtained income of up to 2,300 Tax Units (approx. USD 2,763,000) during tax year 2019 may postpone the filing of the PLAME return of the period February 2020.
- Taxpayers that obtained revenues of up to 5,000 Tax Units (approx. USD 6.01 million) during tax year 2019 may postpone the filing of the PLAME tax return of the period of March 2020.



Home



Summary



EMEA



AMERICAS



AP

Taxation

VAT

- Taxpayers that obtained revenues of up to 2,300 Tax Units (approx. USD 2,763,000) during tax year 2019 may postpone the filing of the VAT return of the period February 2020.
- Taxpayers that obtained revenues of up to 5,000 Tax Units (approx. USD 6,010,000) during tax year 2019 may postpone the filing of the VAT return of the periods of March and April 2020.
- Release of VAT Withholding funds (SPOT) for the period 23 March to 7 April 2020. The request includes the accumulated balance in the VAT Withholding fund (SPOT) account until 15 March 2020.
- The benefit of early recovery of VAT applicable to small size and mid-size companies has been extended until 31 December 2023 in order to promote the acquisition of capital goods (RERA MYPE).
- Likewise, its scope has been extended, provided that, exceptionally until 31 December 2021, VAT taxpayers: a) register as annual net income an amount greater than 300 Tax Units (approx. USD 382,210) and up to 2,300 Tax Units (approx. USD 2.76 million) and b) are under the Income Tax MYPE regime (small and med-size companies).

Excise / Import duties

- Imports of certain medicines, medical equipment and devices are exempt from customs duties for 90 calendar days beginning 12 March 2020 (rate will go back to 6.0% at the end of the 90-day period).

Other taxes

- Taxpayers that obtained revenues of up to 2,300 Tax Units (approx. USD 2,76 million) during tax year 2019 may postpone the filing of electronic sales register, electronic income register and electronic purchase register of the period February 2020.
- Taxpayers that obtained revenues of up to 5,000 Tax Units (approx. US\$ 6,01 million) during tax year 2019 may postpone the filing of:
- The deadline for the annual return of operations with third parties due in March has been postponed until 29 May 2020.
- Filing of electronic sales register, electronic income register and electronic purchase register of the periods from March to June, 2020.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Comments

- The Peruvian Tax Authority will not impose tax penalties (at its sole discretion) for infractions committed or detected during the national emergency period. This kind of disposition has been approved in the past for other circumstances and in those situations the Tax Authority did not impose any penalty to any taxpayer for the infractions included in the extraordinary measure.
- All deadlines for tax procedures initiated before 15 March 2020 are suspended for 30 business days, beginning 16 March 2020.
- The Peruvian Tax Authority is closed during the National Emergency period.
- For installment payment plans approved by the Peruvian Tax Authority before 15 March 2020, taxpayers may pay the March installments in April without the imposition of penalties.
- Reduction of interest tax rates:
 - For outstanding tax debts, the default interest rate is reduced to 1.0% per month for tax debts in Peruvian currency and to 0.5% per month for tax debts denominated in foreign currency; and,
 - For refunds of excess tax paid, the refund interest rate is reduced to 0.42% per month for refunds denominated in Peruvian currency and to 0.25% per month for refunds denominated in foreign currency.
- A subsidy on behalf of private entities will be granted, per employee that gains a maximum of PEN 1,500 (approx. USD 429), provided the fulfillment of specific requirements (the subsidy may not exceed 35% of the monthly gross remuneration of each employee).
- New provisions have been established in order to facilitate the payment of tax debts and installment payment plans approved by the Peruvian Tax Authority, provided specific requirements and conditions are met.
- The Peruvian Tax Authority has created a Virtual Reception Desk, in order to allow taxpayers to submit specific documents online.



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

The US government has not announced policy changes as a result of the COVID 19 pandemic. Foreign investment reviews in the United States remain focused on "national security," though shortages in the pandemic may lead CFIUS to scrutinize foreign investments that might be viewed as impacting security of supply of essential medical products. More immediately, Work-From-Home policies have impeded the ability of CFIUS to process new cases. Cases that have previously been filed and accepted are proceeding, but CFIUS has delayed formally accepting new cases. It remains unclear when the CFIUS process will return to normal.

Debt

On 27 March, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to provide financial assistance to individuals and businesses impacted by the coronavirus pandemic. Relatedly, the Federal Reserve and the US Department of the Treasury announced that they were setting up several loan programs and other measures to (i) provide credit to financial institutions and corporate borrowers and (ii) provide liquidity and promote market functioning.

Under the CARES Act

- US\$359 billion in federally backed loans is available under the CARES Act to assist small businesses through the Small Business Administration (SBA).
- US\$454 billion in loans is available to eligible businesses, states and municipalities. "Eligible business" is defined to mean "(A) an air carrier; or (B) a United States business that has not otherwise received adequate economic relief in the form of loans or loan guarantees provided under" the CARES Act.
- Section 4003(b) of the CARES Act also provides liquidity in the form of loans and loan guarantees as follows:
 - US\$25 billion for passenger air carriers, eligible businesses that are certified under part 145, of title 14, Code of Federal Regulations, and approved to perform inspection, repair, replace, or overhaul services, and ticket agents (Section 4003(b)(1));
 - US\$4 billion for cargo air carriers (Section 4003(b)(2)); and
 - US\$17 billion for businesses critical to maintaining national security (Section 4003(b)(3)).



Home



Summary



EMEA



AMERICAS



AP

Debt

Paycheck protection loans

The CARES Act expands the ability to obtain loans under Section 7(a) of the Small Business Act through a US\$659 billion Paycheck Protection Program. Under the program, small businesses are eligible for loans to cover payroll, salaries, commissions, health care costs, mortgages, rent and utility payments and interest on pre-existing debt obligations. Loans cannot exceed 2.5 times the average monthly payroll cost during the prior year to the loan date, are capped at US\$10 million and have a maximum annual interest rate of 4%. These loans do not require collateral, personal guarantees or any recourse to equity holders and are available through 30 June, 2020, to borrowers meeting program criteria. Loan fees are waived, as are the SBA's prior limitations on demonstrating funds are otherwise not available. The maximum loan term is ten years. A business is not eligible to receive these loans if it receives an SBA economic injury disaster loan for the same purpose.

Businesses with 500 or fewer employees that were operational on 15 February, 2020, are eligible to participate in the program. Businesses with more than 500 employees in certain industries may also be eligible to participate under applicable SBA size standards.

The size standards are applied on an affiliate basis in accordance with existing SBA affiliation rules, except for hospitality and restaurant businesses, franchises and recipients of Small Business Investment Company investments. For these exempted businesses, the 500-employee size threshold is measured on a location-by-location basis.

The SBA's affiliation rules are complex and can be triggered in numerous situations not involving 50% or greater ownership.

There is a limit on PPP loans per corporate group of \$20 million.

Payment Forgiveness

For an initial eight week period after an SBA loan is made, the loan may be forgiven to the extent it is used to cover payroll costs, interest payments on mortgages (not including prepayments or principal), rent and utilities. Businesses must retain their employees and pay them at least 75% of their prior-year compensation in order for their loan forgiveness not to be subject to deductions.

The amount of a loan that may be forgiven is ratably reduced if the average number of full-time equivalent employees during the eight week forgiveness period is less than the average number of employees during the period from 15 February, 2019 through 30 June, 2019 or 1 January 2020 through 29 February, 2020. The small business borrower is able to choose which period to compare.



Home



Summary



EMEA



AMERICAS



AP

Debt

To encourage employers to rehire workers laid off due to the coronavirus pandemic, employers that rehire previously laid off workers will not be penalized for having a reduced payroll at the beginning of the forgiveness period. If, during the period from 15 February, 2020 through 26 April 2020, there is a reduction in the number of full-time equivalent employees or their compensation and the employer eliminates the reduction by 30 June, 2020, the amount of loan forgiveness is determined without regard to the reduction.

To apply for SBA loan forgiveness, businesses must submit documentation regarding the eligible uses of loan funds, the amount to be forgiven and any other documentation deemed necessary by the SBA Administrator. The SBA will purchase any loan forgiveness amounts from its certified lenders, and this canceled indebtedness will not result in taxable income to the small business borrower.

Payment Deferral

For principal amounts that exist after any loan forgiveness, small businesses may defer payment of remaining principal, interest and fee balances for at least six months and up to one year.

Economic Injury Disaster Loans or EIDL Loans

In addition to the Paycheck Protection Program, the CARES Act also provides funding for up to US\$10 billion in economy injury disaster loans (EIDL). Such loans are designed to be quickly deployed with advances up to US\$10,000 distributed as soon as three days after application.

The SBA's website now shows a simplified EIDL application process with a reduced number of forms that initially need to be submitted (an application form) and a supporting information form.

CARES Act provisions dealing with financing programs to be provided by the Treasury Department and the Federal Reserve; Federal Reserve measures in response to Coronavirus Pandemic.

The Federal Reserve announced that it is taking extensive measures to support the US economy, including setting up extraordinary programs to provide credit to non-banks such as corporate borrowers. The Federal Reserve also announced measures to support liquidity and market functioning. Some of these measures revive programs put in place by the Federal Reserve in response to the 2008 financial crisis, while others are new programs.

Certain of the programs announced by the Federal Reserve are funded by appropriations made in, and subject to requirements imposed by, the CARES Act.



Home



Summary



EMEA



AMERICAS



AP

Debt

Section 4003(c)(1)(A) of the CARES Act provides that any loans under Section 4003 shall be at a rate determined by the Secretary of the Treasury "based on the risk and the current average yield on outstanding marketable obligations of the United States of comparable maturity."

Further, Section 4003(c)(3)(A)(ii) of the CARES Act requires that in connection with any direct loan under any program or facility pursuant to Section 4003(b)(4), the borrower must agree (a) for a period of 12 months from the date such loan is no longer outstanding, (i) not to buy back any equity securities of the borrower or any parent company that are listed on any national securities exchange (other than to the extent required under a contractual obligation in effect prior to the enactment of the CARES Act) or (ii) pay any dividend or make other capital distribution, and (b) comply with certain limitations regarding employee compensation set forth by the CARES Act in Section 4004 (essentially, total compensation to officers or employees exceeding US\$425,000 in 2019 is frozen and total compensation to officers or employees exceeding US\$3 million is limited to the sum of (i) US\$3 million and (ii) 50% of the excess over US\$3 million received by the officer or employee in 2019). These requirements may be waived by the Secretary of the Treasury only if such waiver is deemed necessary to protect the interests of the Federal Government.

Section 4003(c)(3)(C) requires that facilities and programs established under Section 4003(b)(4) may only purchase obligations or other interests (other than securities that are based on an index or that are based on a diversified pool of securities) from, or make loans or other advances to, businesses that are created or organized in the United States or under the laws of the United States and that have significant operations in, and a majority of its employees based in, the United States.

A. Federal Reserve programs

1. Primary Market Corporate Credit Facility

Under the PMCCF, the Federal Reserve Bank of New York (FRBNY) will lend to a special purpose vehicle (SPV) on a recourse basis. The SPV will (i) purchase qualifying bonds as the sole investor in a bond issuance; and (ii) purchase portions of syndicated loans or bonds at issuance. The FRBNY's loans will be secured by all the assets of the SPV. The Treasury Department will make an initial \$75 billion equity investment in the SPV.

The SPV will leverage the Treasury equity at 10 to 1 when acquiring corporate bonds or syndicated loans from issuers that are investment grade at the time of purchase. The SPV will leverage the Treasury equity at 7 to 1 when acquiring any other type of eligible asset.

The combined size of the PMCCF and the SMCCF will be up to \$750 billion.



Home



Summary



EMEA



AMERICAS



AP

Debt

- a. Eligible assets.
 - i. Eligible corporate bonds as sole investor. The SPV may purchase eligible corporate bonds as the sole investor in a bond issuance. Eligible corporate bonds must meet each of the following criteria at the time of purchase: (i) issued by an eligible issuer; and (ii) have a maturity of four years or less.
 - ii. Eligible syndicated loans and bonds purchased at issuance. The SPV also may purchase portions of syndicated loans or bonds of eligible issuers at issuance. Eligible syndicated loans and bonds must meet each of the following criteria at the time of purchase: (i) issued by an eligible issuer; and (ii) have a maturity of four years or less. The SPV may purchase no more than 25% of any loan syndication or bond issuance.
- b. Eligible issuers. In order to be an eligible issuer, an issuer must
 - i. be a business that is created or organized in the United States or under the laws of the United States with significant operations in and a majority of its employees based in the United States.
 - ii. have been rated at least BBB-/Baa3 as of 22 March 2020 by a major nationally recognized statistical rating organization (NRSRO) and, if rated by multiple major NRSROs, such issuer must have been rated at least BBB-/Baa3 by two or more NRSROs as of 22 March 2020.
 - 1. An issuer that was rated at least BBB-/Baa3 as of 22 March 2020, but is subsequently downgraded, must be rated at least BB-/Ba3 as of the date on which the SPV makes a purchase. If rated by multiple major NRSROs, such issuer must be rated at least BB-/Ba3 by two or more NRSROs at the time the SPV makes a purchase.
 - 2. In every case, issuer ratings are subject to review by the Federal Reserve.
 - iii. not be an insured depository institution or depository institution holding company.
 - iv. not receive direct financial assistance under the CARES Act (e.g., air carriers).
 - v. satisfy the conflicts of interest requirements of Section 4019 of the CARES Act.

Debt

- c. Maximum loan amount. The maximum amount to be extended to any issuer under the PMCCF will not exceed 130% of the maximum amount of outstanding bonds and loans of such issuer on any day between 22 March 2019 and 22 March 2020 (without giving effect to undrawn commitments). The maximum amount of instruments that SPV will purchase under the PMCCF and the SMCCF with respect to any eligible issuer is capped at 1.5% of the combined potential size of the PMCCF and the SMCCF.
- d. Pricing.
 - i. Eligible corporate bonds: Pricing will be issuer-specific, informed by market conditions, plus a 100 bps facility fee.
 - ii. Eligible syndicated loans and bonds: The SPV will receive the same pricing as other syndicate members, plus a 100 bps facility fee on the SPV's share of the syndication.
- e. Refinancing; new debt issuances. Issuers may approach the SPV to refinance outstanding debt, from the period of three months ahead of the maturity date of such outstanding debt. Issuers may additionally approach the SPV at any time to issue additional debt, provided their rating is reaffirmed at BB-/Ba3 or above with the additional debt by each major NRSRO with a rating of the issuer.
- f. Ratings; NRSROs. The ratings criteria for the PMCCF refer to ratings provided by major NRSROs. Major NRSROs include Fitch Ratings, Inc., Moody's Investors Service, Inc., and S&P Global Ratings. Major NRSROs also include DBRS, Inc., Kroll Bond Rating Agency, Inc., and A.M. Best Rating Services, Inc. (A.M. Best Rating Services, Inc. only with respect to insurance companies) to the extent that the issuer also has a qualifying rating from Fitch Ratings, Inc., Moody's Investors Service, Inc., or S&P Global Ratings. In all cases, ratings from an NRSRO will not be accepted if the NRSRO did not rate the Eligible Issuer as of 22 March 2020.

The SPV will cease purchasing eligible assets under the PMCCF no later than 30 September, 2020, unless such date is extended by the Federal Reserve Board and the Treasury Department.



Home



Summary



EMEA



AMERICAS



AP

Debt

2. Secondary Market Corporate Credit Facility

Under the SMCCF, the FRBNY will lend, on a recourse basis, to an SPV that will purchase in the secondary market corporate debt issued by eligible issuers. The SPV will purchase eligible corporate bonds as well as eligible corporate bond portfolios in the form of exchange-traded funds ("ETFs"). The FRBNY's loans will be secured by all the assets of the SPV. The Treasury Department will make an initial \$75 billion equity investment in the SPV.

The SPV will leverage the Treasury equity at 10 to 1 when acquiring corporate bonds that are investment grade at the time of purchase and when acquiring ETFs whose primary investment objective is exposure to US investment-grade corporate bonds. The SPV will leverage the Treasury equity at 7 to 1 when acquiring corporate bonds from issuers that are rated below investment grade at the time of purchase and in a range between 3 to 1 and 7 to 1, depending on risk, when acquiring any other type of eligible asset.

The combined size of the SMCCF and the PMCCF will be up to \$750 billion.

a. Eligible assets.

- i. Eligible individual corporate bonds. The SPV may purchase corporate bonds that, at the time of purchase: (A) were issued by an eligible issuer; (B) have a remaining maturity of five years or less; and (C) were sold to the SPV by an eligible seller.
- ii. Eligible ETFs. The SPV also may purchase US-listed ETFs whose investment objective is to provide broad exposure to the market for US corporate bonds. The preponderance of the SPV's ETF holdings will be of ETFs whose primary investment objective is exposure to US investment-grade corporate bonds, and the remainder will be in ETFs whose primary investment objective is exposure to US high-yield corporate bonds.

b. Eligible issuers for individual corporate bonds. In order to be an eligible issuer, an issuer must

- i. be a business that is created or organized in the United States or under the laws of the United States with significant operations in and a majority of its employees based in the United States.
- ii. have been rated at least BBB-/Baa3 as of 22 March 2020, by a major NRSRO and, if rated by multiple major NRSROs, such issuer must have been rated at least BBB-/Baa3 by two or more NRSROs as of 22 March 2020
 1. An issuer that was rated at least BBB-/Baa3 as of 22 March 2020, but was subsequently downgraded, must be rated at least BB-/Ba3 as of the date on which the SPV makes a purchase. If rated by multiple major NRSROs, such issuer must be rated at least BB-/Ba3 by two or more NRSROs at the time the SPV makes a purchase.



Home



Summary



EMEA



AMERICAS



AP

Debt

- iii. not be an insured depository institution or depository institution holding company.
 - iv. not receive specific support pursuant to the CARES Act or any subsequent federal legislation.
 - v. satisfy the conflicts of interest requirements of Section 4019 of the CARES Act.
- c. Eligible Seller. Each institution from which the SPV purchases securities must be a business that is created or organized in the United States or under the laws of the United States with significant US operations and a majority of US-based employees. The institution also must satisfy the conflicts of interest requirements of Section 4019 of the CARES Act.
- d. Limits per Issuer/ETF. The maximum amount of instruments that the SPV will purchase under the SMCCF and the PMCCF combined will purchase with respect to any eligible issuer is capped at 1.5% of the combined potential size of the SMCCF and the PMCCF. The maximum amount of bonds of any eligible issuer that the SPV will purchase in the secondary market is also capped at 10% of the issuer's maximum bonds outstanding on any day between 22 March 2019 and 22 March 2020. The SPV will not purchase shares of a particular ETF if after such purchase the SPV would hold more than 20% of that ETF's outstanding shares.
- e. Pricing. The SPV will purchase eligible corporate bonds at fair market value in the secondary market. The SPV will avoid purchasing shares of eligible ETFs when they trade at prices that materially exceed the estimated net asset value of the underlying portfolio. The SPV will generally not purchase shares of an ETF that were determined to have closed at a premium above the lower of the following limits relative to the prior end-of-day official net asset value (NAV): (a) 1%, or (b) the mean premium observed over the prior 52 weeks, on a rolling basis, plus the 1-standard deviation of the premium for the same period. Additionally, on an intraday basis, the SMCCF will generally limit purchases of eligible ETFs that are trading at levels well above estimates of intraday net asset value (iNAV) as measured during trading hours.
- f. Ratings; NRSROs. The ratings criteria for the SMCCF refer to ratings provided by major NRSROs. Major NRSROs include Fitch Ratings, Inc., Moody's Investors Service, Inc., and S&P Global Ratings. Major NRSROs also include DBRS, Inc., Kroll Bond Rating Agency, Inc., and A.M. Best Rating Services, Inc. (A.M. Best Rating Services, Inc. only with respect to insurance companies) to the extent that the issuer also has a qualifying rating from Fitch Ratings, Inc., Moody's Investors Service, Inc., or S&P Global Ratings. In all cases, ratings from an NRSRO will not be accepted if the NRSRO did not rate the Eligible Issuer as of 22 March 2020.

The SPV will cease purchasing eligible corporate bonds and eligible ETFs under the SMCCF no later than 30 September, 2020, unless such date is extended by the Federal Reserve Board and the Treasury Department.



Home



Summary



EMEA



AMERICAS



AP

Debt

3. Term Asset-Backed Securities Loan Facility

The Federal Reserve published an updated term sheet for the TALF, which the Federal Reserve had originally announced on 23 March 2020. The TALF is intended to facilitate the issuance by private entities of asset-backed securities (ABS) backed by student loans, auto loans, credit card loans, loans guaranteed by the Small Business Administration and certain other assets. The TALF is a revival of a loan facility put in place in response to the 2008 financial crisis.

Under the TALF, the FRBNY will lend to an SPV on a recourse basis. The Treasury Department will make an equity investment of \$10 billion in the SPV.

The SPV will make up to \$100 billion of loans available. The loans will have a term of three years, will be nonrecourse to the borrower (provided the TALF requirements are met) and will be fully secured by eligible ABS.

a. Eligible borrowers

All US companies that own eligible collateral and maintain an account relationship with a primary dealer are eligible to borrow under the TALF. To be eligible under the TALF, a borrower must have significant operations in and a majority of its employees based in the United States.

FAQs issued on 12 May 2020 provide clarification that an Eligible Borrower may be an investment fund so long as the investment manager for such investment fund has significant operations in and a majority of its employees based in the United States. The FAQs provide a non-exhaustive definition and examples of what constitutes significant operations in the US.

If a borrower is not an investment fund, the borrower (on a consolidated basis, i.e., together with its consolidated subsidiaries but excluding any parent company or sister affiliate) must have significant operations in and a majority of its employees based in the US.

Borrowers under the TALF will be required to certify that they are unable to secure adequate credit accommodations from other banking institutions. In making this certification, a TALF participant may rely on unusual economic conditions in the ABS market or markets intended to be addressed by the TALF, such as ABS spreads that are elevated relative to normal market conditions. Credit may be available, but inadequate in its amount, price, or terms because, for example, ABS spreads are elevated relative to normal market conditions.



Home



Summary



EMEA



AMERICAS



AP

Debt

b. Eligible collateral

Eligible collateral includes U.S. dollar denominated cash (that is, not synthetic) ABS that have a credit rating in the highest long-term or, if no long-term rating is available, the highest short-term investment-grade rating category from at least two eligible (NRSROs) and do not have a credit rating below the highest investment-grade rating category from an eligible NRSRO.

With the exception of commercial mortgage-backed securities (CMBS), SBA Pool Certificates, and Development Company Participation Certificates, eligible ABS must be issued on or after 23 March 2020. CMBS issued on or after 23 March 2020, will not be eligible. SBA Pool Certificates or Development Company Participation Certificates must be issued on or after 1 January 2019.

All or substantially all of the credit exposures underlying the eligible ABS must (1) for newly issued ABS, except for collateralized loan obligations (CLOs), be originated by US-organized entities (including US branches or agencies of foreign banks), (2) for CLOs, have a lead or a co-lead arranger that is a US-organized entity (including a U.S. branch or agency of a foreign bank), and (3) for all ABS (including CLOs and CMBS), be to US-domiciled obligors or with respect to real property located in the US or one of its territories.

Eligible collateral must be ABS where the underlying credit exposures are one of the following:

1. Auto loans and leases;
2. Student loans;
3. Credit card receivables (both consumer and corporate);
4. Equipment loans and leases;
5. Floorplan loans;
6. Premium finance loans for property and casualty insurance;
7. Certain small business loans that are guaranteed by the Small Business Administration;
8. Leveraged loans; or
9. Commercial mortgages.

Eligible collateral will not include ABS that bear interest payments that step up or step down to predetermined levels on specific dates. In addition, the underlying credit exposures of eligible collateral will not include exposures that are themselves cash ABS or synthetic ABS.



Home



Summary



EMEA



AMERICAS



AP

Debt

To be eligible collateral, all or substantially all of the underlying credit exposures must be newly issued, except for CMBS.

Only ABS tranches that are not junior to any other class of securities backed by the same pool of assets are eligible for TALF.

All eligible ABS must entitle their holders to payments of principal and interest (that is, must not be an interest-only or principal-only security).

Eligible ABS do not include ABS issued by or sponsored by (or, in the case of CLOs, with collateral managers which are) US entities that have received specific support pursuant to section 4003(b)(1)-(3) of the CARES Act.

The FRBNY will reject ABS that do not meet the collateral eligibility requirements.

The FRBNY, in its sole discretion, may also reject an ABS, for any reason, even if the ABS meets the collateral eligibility requirements. In making such determination, the FRBNY may consider, among others, the credit quality, transparency, and simplicity of structure.

Additionally, the FRBNY will not fund a TALF loan if, in its judgment, a potential borrower is motivated to request a TALF loan due to the direct or indirect economic interest of such borrower, or any of its affiliates, in the underlying loans or leases, or products or services relating to such loans or leases, in the pool underlying the ABS, and such economic interest would impact the incentive of such borrower to independently assess the risk of investment in such ABS.

The CLO manager can only sell assets that defaulted in interest and principal payments, but cannot sell credit risk assets.

The FAQs indicate that that a certification will be required from the ABS issuer and sponsor of the transaction to the effect that (1) the ABS is eligible collateral and (2) there are no untrue statements or omission of material fact made in the offering document or in the information provided to the NRSROs. The "sponsor", which the FAQ explicitly defined as the collateral manager of the CLO, must indemnify the FRBNY for any losses it may suffer if such certifications are untrue.

The FAQs also indicate that an accounting firm retained by the CLO issuer must provide to the FRBNY either (1) an opinion on the assertion of management of the issuer and sponsor that the CLO securities are TALF eligible or (2) solely in the case of CLOs, a report on agreed upon procedures (AUP) with respect to factual matters related to various TALF eligibility requirements for leveraged loans.

The ratings criteria for the TALF refer to ratings provided by major NRSROs. Major NRSROs include Fitch Ratings, Inc., Moody's Investors Service, Inc., and S&P Global Ratings. Major NRSROs also include DBRS, Inc. and Kroll Bond Rating Agency, Inc. to the extent that the collateral also has a qualifying rating from Fitch Ratings, Inc. , Moody's Investors Service, Inc., or S&P Global Ratings.



Home



Summary



EMEA



AMERICAS



AP

Debt

The Federal Reserve will consider the feasibility of adding other asset classes to the TALF or expanding the scope of existing asset classes in the future.

4. Main Street Business Lending Program

The Federal Reserve released three term sheets for the Main Street lending program, one for a New Loan Facility, one for an Expanded Loan Facility and one for a Priority Loan Facility.

The Federal Reserve also provided a set of frequently asked questions (FAQs) dated 4 May 2020 covering all three loan facilities.

All three facilities are being provided under Section 13(3) of the Federal Reserve Act. Each facility is structured so that the Federal Reserve Bank of Boston will lend to a single special purpose vehicle (SPV) on a recourse basis. The SPV will purchase participations in eligible loans from eligible lenders (although the participation percentage varies between the facilities). The Treasury Department, using funds appropriated to the Exchange Stabilization Fund under Section 4027 of the CARES Act, will make a \$75 billion equity investment in the SPV, which will then be leveraged such that the combined size of the Main Street facilities will be up to \$600 billion.

The New Loan Facility applies to secured or unsecured term loans made by eligible lenders to eligible borrowers after 24 April 2020. The Expanded Loan Facility applies to upsizes of existing term loan facilities or revolving credit facilities originally made by eligible lenders to eligible borrowers on or before 24 April 2020. The Priority Loan Facility applies to secured or unsecured term loans made by eligible lenders to eligible borrowers after 24 April 2020, and differs from the New Loan Facility in that borrowers may have more leverage and the participation percentage to be purchased from the originating bank is lower than under the New Loan Facility. The amortization schedule also differs between the three facilities.

Terms common to all three Main Street facilities.

- a. How to apply for a Main Street loan. Item F.1 of the FAQs states that, in order to apply for a loan under one of the Main Street programs, an Eligible Borrower must submit to an Eligible Lender an application and any other documentation required by the lender. The Federal Reserve recommended that any company interested in obtaining a Main Street loan should contact an Eligible Lender for more information on whether the Eligible Lender plans to participate in the program and to request more information on the application process. Updates regarding the Main Street program, including the official launch date and the time and date at which the SPV will begin purchasing participations, will be made available on the Federal Reserve's [Main Street webpage](#).



Home



Summary



EMEA



AMERICAS



AP

Debt

- b. **Eligible Lenders.** A US federally insured depository institution (including a bank, savings association, or credit union), a US branch or agency of a foreign bank, a US bank holding company, a US savings and loan holding company, a US intermediate holding company of a foreign banking organization, or a US subsidiary of any of the foregoing.
- Nonbank financial institutions are not Eligible Lenders. Item I.1 of the FAQs indicates that the Federal Reserve is considering options to expand the list of Eligible Lenders in the future.
- c. **Eligible Borrowers.** A Business (defined to mean "an entity that is organized for profit as a partnership; a limited liability company; a corporation; an association; a trust; a cooperative; a joint venture with no more than 49 percent participation by foreign business entities; or a tribal business concern as defined in 15 USC § 657a(b)(2)(C), except that 'small business concern' in that paragraph should be replaced with 'Business' as defined herein") that:
1. was established prior to 13 March 2020;
 2. is not an Ineligible Business (defined to mean "a type of business listed in 13 CFR §120.110(b)-(j) and (m)-(s), as modified by regulations implementing the Paycheck Protection Program established by section 1102 of the CARES Act ('PPP') on or before 24 April 2020.");
 3. meets at least one of the following two conditions: (i) has 15,000 employees or fewer, or (ii) had 2019 annual revenues of \$5 billion or less;
 4. was created or organized in the United States or under the laws of the United States with significant operations in and a majority of its employees based in the United States;
 5. does not also participate in the Primary Market Corporate Credit Facility (and a borrower is limited to participating in only one of the three Main Street loan facilities); and
 6. has not received specific support pursuant to the CARES Act.

The FAQs further indicate that an Eligible Borrower must have been in sound financial condition prior to the onset of the COVID-19 pandemic. Under Section 13(3) of the Federal Reserve Act, a borrower cannot be insolvent.



Home



Summary



EMEA



AMERICAS



AP

Debt

For purposes of calculating the number of employees that a borrower has, Item E.3 of the FAQs states that borrowers should follow the framework set out in the SBA's regulation at 13 CFR §121.106. Such regulation provides that borrowers should count as employees all full-time, part-time, seasonal, or otherwise employed persons, excluding volunteers and independent contractors. A borrower should count its own employees and those employed by its affiliates. In order to determine the applicable number of employees, a borrower should use the average of the total number of persons employed by the borrower and its affiliates for each pay period over the 12 months prior to the origination or upsizing of a Main Street loan.

For purposes of calculating a borrower's 2019 annual revenues, Item E.4 of the FAQs states that a borrower must aggregate its revenues with those of its affiliates. Borrowers are permitted to use either of the following methods to calculate 2019 annual revenues for purposes of determining eligibility: (1) a borrower may use its (and its affiliates') annual "revenue" per its 2019 GAAP audited financial statements; or (2) a borrower may use its (and its affiliates') annual receipts for the fiscal year 2019, as reported to the IRS. If a potential borrower (or any affiliate) does not yet have audited financial statements or annual receipts for 2019, the borrower (or such affiliate) should use its most recent audited financial statements or annual receipts.

Item E.5 of the FAQs states that the SBA affiliation test set forth in 13 CFR §121.301(f) will be used to determine eligibility with respect to number of employees and 2019 revenues.

Nonprofit businesses are ineligible to participate in the Main Street programs.

- d. **Assessment of Financial Condition.** Eligible Lenders must conduct an assessment of each potential borrower's financial condition at the time of the potential borrower's application.

Item F.3 of the FAQs states that Eligible Lenders are expected to apply their own underwriting standards in evaluating the financial condition and creditworthiness of a potential borrower, and that an Eligible Lender may require additional information and documentation in making this evaluation and will ultimately determine whether an Eligible Borrower is approved for a Main Street loan in light of these considerations.

- e. **Retaining Employees.** Each Eligible Borrower that participates in any Main Street facility must make commercially reasonable efforts to maintain its payroll and retain its employees during the time the loan is outstanding.
- f. **Termination.** The SPV will cease purchasing participations in Eligible Loans no later than 30 September 2020, unless the Federal Reserve Board and the Treasury Department extend the facilities. The Federal Reserve will continue to fund the SPV after such date until the SPV's underlying assets mature or are sold.

Debt

Comparison of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

The table below compares the terms of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility,

	Main Street New Loan Facility	Main Street Expanded Loan Facility	Main Street Priority Loan Facility
Eligible Loans	<p>Secured or unsecured term loan originated after 24 April 2020 with all of the following:</p> <ol style="list-style-type: none"> maturity: 4 years; principal and interest payments: deferred for one year (unpaid interest will be capitalized); interest rate: LIBOR (1 or 3 month) + 300 basis points; principal amortization: one-third at the end of the second year, one-third at the end of the third year, and one-third at maturity at the end of the fourth year; minimum loan size: \$500,000; 	<p>Secured or unsecured term loan or revolving credit facility originated on or before 24 April 2020, and that has a remaining maturity of at least 18 months (taking into account any adjustments made to the maturity of the loan after 24 April 2020, including at the time of upsizing), provided that the upsized tranche of the loan is a term loan that has all of the following features:</p> <ol style="list-style-type: none"> maturity: same as New Loan; principal and interest payments: same as New Loan; interest rate: same as New Loan; principal amortization: 15% at the end of the second year, 15% at the end of the third year, and a balloon payment of 70% at maturity at the end of the fourth year; minimum loan size: \$10 million; 	<p>Secured or unsecured term loan originated after 24 April 2020 with all of the following:</p> <ol style="list-style-type: none"> maturity: same as New Loan; principal and interest payments: same as New Loan; interest rate: same as New Loan; principal amortization: 15% at the end of the second year, 15% at the end of the third year, and a balloon payment of 70% at maturity at the end of the fourth year; minimum loan size: \$500,000; maximum loan size: the lesser of (i) \$25 million or (ii) an amount that, when added to the borrower's existing outstanding and undrawn available debt, does not exceed six times the borrower's adjusted 2019 EBITDA;

Debt

Comparison of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

The table below compares the terms of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

	Main Street New Loan Facility	Main Street Expanded Loan Facility	Main Street Priority Loan Facility
Eligible Loans	<p>6. maximum loan size: the lesser of (i) \$25 million or (ii) an amount that, when added to the borrower's existing outstanding and undrawn available debt, does not exceed four times the borrower's adjusted 2019 EBITDA;</p> <p>7. ranking: the loan is not, at the time of origination or at any time during the term of the loan, contractually subordinated in terms of priority to any of the borrower's other loans or debt instruments; and</p> <p>8. prepayment: permitted without penalty.</p>	<p>6. maximum loan size: the least of (i) \$200 million, (ii) 35% of the borrower's existing outstanding and undrawn available debt that is <i>pari passu</i> in priority with the loan and equivalent in secured status (i.e., secured or unsecured), or (iii) an amount that, when added to the borrower's existing outstanding and undrawn available debt, does not exceed six times the borrower's adjusted 2019 EBITDA;</p> <p>7. ranking: at the time of upsizing and at all times the upsized tranche is outstanding, the upsized tranche is senior to or <i>pari passu</i> with, in terms of priority and security, the Eligible Borrower's other loans or debt instruments, other than mortgage debt; and</p> <p>8. prepayment: permitted without penalty.</p>	<p>7. ranking: at the time of origination and at all times the loan is outstanding, the loan is senior to or <i>pari passu</i> with, in terms of priority and security, the borrower's other loans or debt instruments, other than mortgage debt; and</p> <p>8. prepayment: permitted without penalty.</p>

Debt

Comparison of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

The table below compares the terms of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

	Main Street New Loan Facility	Main Street Expanded Loan Facility	Main Street Priority Loan Facility
Loan Classification	If the borrower had other loans outstanding with the lender as of 31 December 2019, such loans must have had an internal risk rating equivalent to a "pass" in the FFIEC's supervisory rating system on that date.	The loan must have had an internal risk rating equivalent to a "pass" in the FFIEC's supervisory rating system as of 31 December 2019.	If the borrower had other loans outstanding with the lender as of 31 December 2019, such loans must have had an internal risk rating equivalent to a "pass" in the FFIEC's supervisory rating system on that date.
Loan Participations	The SPV will purchase at par value a 95% participation in the loan. The Eligible Lender must retain its 5% of the loan until it matures or the SPV sells all of its participation, whichever comes first. The sale of the participation to the SPV will be structured as a "true sale."	The SPV will purchase at par value a 95% participation in the upsized term loan tranche of the loan, provided that it is upsized after 24 April 2020. The Eligible Lender must be one of the lenders that holds an interest in the underlying loan at the date of upsizing. The Eligible Lender must retain its 5% portion of the upsized tranche of the loan until the upsized tranche of the loan matures or the SPV sells all of its 95% participation, whichever comes first.	The SPV will purchase at par value an 85% participation in the loan. The Eligible Lender must retain its 15% of the loan until it matures or the SPV sells all of its participation, whichever comes first. The sale of the participation to the SPV will be structured as a "true sale."

Debt
Comparison of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

The table below compares the terms of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

	Main Street New Loan Facility	Main Street Expanded Loan Facility	Main Street Priority Loan Facility
Loan Participations		The Eligible Lender must also retain its interest in the underlying loan until the underlying loan matures, the upsized tranche of the loan matures, or the SPV sells all of its 95% participation, whichever comes first. Any collateral securing the loan (at the time of upsizing or on any subsequent date) must secure the upsized tranche on a pro rata basis. The sale of the participation to the SPV will be structured as a "true sale."	
Required Lender Certifications and Covenants	<p>Eligible Lender must</p> <ul style="list-style-type: none"> commit that it will not request that the borrower repay debt extended by the lender to the borrower, or pay interest on such outstanding obligations, until the New Loan is repaid in full, unless the debt or interest payment is mandatory and due, or in the case of default and acceleration. 	<p>Eligible Lender must</p> <ul style="list-style-type: none"> commit that it will not request that the borrower repay debt extended by the lender to the borrower, or pay interest on such outstanding obligations, until the upsized tranche is repaid in full, unless the debt or interest payment is mandatory and due, or in the case of default and acceleration. 	<p>Eligible Lender must</p> <ul style="list-style-type: none"> commit that it will not request that the borrower repay debt extended by the lender to the borrower, or pay interest on such outstanding obligations, until the Priority Loan is repaid in full, unless the debt or interest payment is mandatory and due, or in the case of default and acceleration.

Debt

Comparison of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

The table below compares the terms of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

	Main Street New Loan Facility	Main Street Expanded Loan Facility	Main Street Priority Loan Facility
Required Lender Certifications and Covenants	<ul style="list-style-type: none"> commit that it will not cancel or reduce any existing committed lines of credit to the borrower, except in an event of default. certify that the methodology used for calculating the borrower's adjusted 2019 EBITDA for the leverage requirement in the Eligible Loan definition is the methodology it has previously used for adjusting EBITDA when extending credit to the borrower or similarly situated borrowers on or before 24 April 2020. certify that it is eligible to participate in the facility, including in light of the conflicts of interest prohibition in section 4019(b) of the CARES Act. 	<ul style="list-style-type: none"> commit that it will not cancel or reduce any existing committed lines of credit to the borrower, except in an event of default. certify that the methodology used for calculating the borrower's adjusted 2019 EBITDA for the leverage requirement in the Eligible Loan definition is the methodology it used for adjusting EBITDA when originating or amending the underlying loan on or before 24 April 2020. certify that it is eligible to participate in the facility, including in light of the conflicts of interest prohibition in section 4019(b) of the CARES Act. 	<ul style="list-style-type: none"> commit that it will not cancel or reduce any existing committed lines of credit to the borrower, except in an event of default. certify that the methodology used for calculating the borrower's adjusted 2019 EBITDA for the leverage requirement in the Eligible Loan definition is the methodology it has previously used for adjusting EBITDA when extending credit to the borrower or similarly situated borrowers on or before 24 April 2020. certify that it is eligible to participate in the facility, including in light of the conflicts of interest prohibition in section 4019(b) of the CARES Act.

Debt

Comparison of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

The table below compares the terms of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

	Main Street New Loan Facility	Main Street Expanded Loan Facility	Main Street Priority Loan Facility
Required Borrower Certifications and Covenants	<p>The Eligible Borrower must:</p> <ul style="list-style-type: none"> commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the New Loan is repaid in full, unless the debt or interest payment is mandatory and due. commit that it will not seek to cancel or reduce any of its committed lines of credit with the lender or any other lender. certify that it has a reasonable basis to believe that, as of the date of origination of the loan and after giving effect to such loan, it has the ability to meet its financial obligations for at least the next 90 days and does not expect to file for bankruptcy during that period. 	<p>The Eligible Borrower must:</p> <ul style="list-style-type: none"> commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the upsized tranche of the loan is repaid in full, unless the debt or interest payment is mandatory and due. commit that it will not seek to cancel or reduce any of its committed lines of credit with the lender or any other lender. certify that it has a reasonable basis to believe that, as of the date of upsizing of the loan and after giving effect to such upsizing, it has the ability to meet its financial obligations for at least the next 90 days and does not expect to file for bankruptcy during that period. 	<p>The Eligible Borrower must:</p> <ul style="list-style-type: none"> commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the Priority Loan is repaid in full, unless the debt or interest payment is mandatory and due. However, the borrower may, at the time of origination of the Priority Loan, refinance existing debt owed by the borrower to another lender; commit that it will not seek to cancel or reduce any of its committed lines of credit with the lender or any other lender. certify that it has a reasonable basis to believe that, as of the date of origination of the loan and after giving effect to such loan, it has the ability to meet its financial obligations for at least the next 90 days and does not expect to file for bankruptcy during that period.

Debt
Comparison of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

The table below compares the terms of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

	Main Street New Loan Facility	Main Street Expanded Loan Facility	Main Street Priority Loan Facility
Required Borrower Certifications and Covenants	<ul style="list-style-type: none"> commit that it will follow compensation, stock repurchase, and capital distribution restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act,¹⁴ except that an S corporation or other tax pass-through entity may make distributions to the extent reasonably required to cover its owners' tax obligations in respect of the entity's earnings. certify that it is eligible to participate in the facility, including in light of the conflicts of interest prohibition in section 4019(b) of the CARES Act. 	<ul style="list-style-type: none"> commit that it will follow compensation, stock repurchase, and capital distribution restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act, except that an S corporation or other tax pass-through entity may make distributions to the extent reasonably required to cover its owners' tax obligations in respect of the entity's earnings. certify that it is eligible to participate in the facility, including in light of the conflicts of interest prohibition in section 4019(b) of the CARES Act. 	<ul style="list-style-type: none"> commit that it will follow compensation, stock repurchase, and capital distribution restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act, except that an S corporation or other tax pass-through entity may make distributions to the extent reasonably required to cover its owners' tax obligations in respect of the entity's earnings. certify that it is eligible to participate in the facility, including in light of the conflicts of interest prohibition in section 4019(b) of the CARES Act.

Debt
Comparison of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

The table below compares the terms of the New Loan Facility, the Expanded Loan Facility and the Priority Loan Facility

	Main Street New Loan Facility	Main Street Expanded Loan Facility	Main Street Priority Loan Facility
Transaction Fee	The lender must pay the SPV a transaction fee of 100 basis points of the principal amount of the loan at the time of origination. The lender may require the borrower to pay this fee.	The lender must pay the SPV a transaction fee of 75 basis points of the principal amount of the upsized tranche of the loan at the time of upsizing. The lender may require the borrower to pay this fee.	The lender must pay the SPV a transaction fee of 100 basis points of the principal amount of the loan at the time of origination. The lender may require the borrower to pay this fee.
Loan Origination and Servicing Fees	The borrower must pay the lender an origination fee of up to 100 basis points of the principal amount of the loan at the time of origination. The SPV will pay the lender 25 basis points of the principal amount of its participation in the loan per annum for loan servicing.	The borrower must pay the lender an origination fee of up to 75 basis points of the principal amount of the upsized tranche of the loan at the time of upsizing. The SPV will pay the lender 25 basis points of the principal amount of its participation in the upsized tranche of the loan per annum for loan servicing.	The borrower must pay the lender an origination fee of up to 100 basis points of the principal amount of the loan at the time of origination. The SPV will pay the lender 25 basis points of the principal amount of its participation in the loan per annum for loan servicing.



Home



Summary



EMEA



AMERICAS



AP

Debt

Section 4003(c)(3)(D) of the CARES Act directs the Secretary of the Treasury to implement a program or facility to provide financing to banks and other lenders to make direct loans to eligible businesses including, to the extent practicable, nonprofit organizations, with between 500 and 10,000 employees. The annualized interest rate applicable to the Treasury program is not to exceed 2% per annum. No principal or interest will be payable for the first 6 months.

The CARES Act requires that the Treasury financing program for mid-sized businesses must contain many significant restrictions that are not set forth in the term sheets for the Federal Reserve's Main Street lending program. The restrictions required by the CARES Act for the Treasury program include detailed requirements as to workforce retention and payment of benefits, restrictions on outsourcing and offshoring jobs, a prohibition on abrogating existing collective bargaining agreements and a commitment to remain neutral in any union organizing effort. In certain cases, these restrictions would apply for a period of time after the loan is repaid.

These details of the relationship between the Treasury financing program for mid-sized businesses and the Federal Reserve's Main Street lending program are not yet clear. Section 4003(c)(3)(D)(ii) of the CARES Act permits the Federal Reserve in its "discretion" to establish a Main Street lending program or other similar program or facility that supports lending to small and mid-sized businesses "on such terms and conditions as the Board may set consistent with section 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)), including any such program in which the Secretary makes a loan, loan guarantee, or other investment under [Section 4003(b)(4)]." [\[4\]](#) Such language states that the Federal Reserve's discretion to set up such programs is not limited by the requirements of Section 4003(c)(3)(D).

5. Municipal Liquidity Facility

The Federal Reserve released a term sheet for the Municipal Liquidity Facility (MLF). The MLF is intended to support lending to US states and the District of Columbia (States), US cities with a population exceeding 250,000 residents (Cities), US counties with a population exceeding 500,000 residents (Counties), and entities created by a compact between two or more States, which compact has been approved by the United States Congress, acting pursuant to its power under the Compact Clause of the United States Constitution (Multi-State Entities).

Under the MLF, the Federal Reserve Bank of New York will lend to an SPV on a recourse basis. The SPV will purchase up to \$500 billion in eligible notes directly from eligible issuers. The Federal Reserve Bank will be secured by all the assets of the SPV. The Treasury Department, using funds appropriated to the Exchange Stabilization Fund under Section 4027 of the CARES Act, will make a \$35 billion equity investment in the SPV.



Home



Summary



EMEA



AMERICAS



AP

Debt

In addition to the MLF, the Federal Reserve stated that it would continue to closely monitor conditions in the primary and secondary markets for municipal securities and would evaluate whether additional measures are needed to support the flow of credit and liquidity to state and local governments.

a. Eligible issuers

The MLF is intended for the purchase of notes from "eligible issuers", which is defined as a State, City, or County (or, subject to Federal Reserve review and approval, an entity that issues securities on behalf of the State, City, or County for the purpose of managing its cash flows) or a Multi-State Entity. An Eligible Issuer that is not a Multi-State Entity must have been rated at least BBB-/Baa3 as of 8 April 2020, by two or more major NRSROs. An Eligible Issuer that is not a Multi-State Entity and that was rated at least BBB-/Baa3 as of 8 April 2020, but is subsequently downgraded, must be rated at least BB-/Ba3 by two or more major NRSROs at the time the Facility makes a purchase. An Eligible Issuer that is a Multi-State Entity must have been rated at least A-/A3 as of 8 April 2020, by two or more major NRSROs. A Multi-State Entity that was rated at least A-/A3 as of 8 April 2020, but is subsequently downgraded, must be rated at least BBB-/Baa3 by two or more major NRSROs at the time the MLF makes a purchase. Notwithstanding the foregoing, if a State, City, County, or Multi-State Entity was rated by only one major NRSRO as of 8 April 2020, it may be an Eligible Issuer under the Facility if (i) the rating was at least BBB-/Baa3 (for a State, City, or County) or A-/A3 (for a Multi-State Entity); (ii) the State, City, County, or Multi-State Entity is rated by at least two major NRSROs at the time the Facility makes a purchase; and (iii) such ratings are at least BB-/Ba3 (for a State, City, or County) or BBB-/Baa3 (for a Multi-State Entity).

Only one issuer per State, City, County, or Multi-State Entity is eligible; provided that the Federal Reserve may approve one or more additional issuers per State, City, or County to facilitate the provision of assistance to political subdivisions and other governmental entities of the relevant State, City, or County.

b. Eligible notes

"Eligible notes" refer to tax anticipation notes, tax and revenue anticipation notes, bond anticipation notes and other similar short-term notes issued by eligible issuers, provided that such notes mature no later than 36 months from the date of issuance. The eligibility of the notes is subject to review by the Federal Reserve.



Home



Summary



EMEA



AMERICAS



AP

Debt

The maturity of the notes must be no later than 36 months from the date of issuance. The notes are prepayable by the eligible issuer at any time at par.

c. Security for Eligible Notes

Note security will be subject to review and approval by the Federal Reserve. The source of repayment and security for Eligible Notes will depend on the applicable constitutional and statutory provisions governing the Eligible Issuer and should be generally consistent with the source of repayment and strongest security typically pledged to repay publicly offered obligations of the Eligible Issuer. Eligible Notes issued by Eligible Issuers that are not Multi-State Entities will generally be expected to represent general obligations of the Eligible Issuer, or be backed by tax or other specified governmental revenues of the applicable State, City, or County. If the Eligible Issuer is an authority, agency, or other entity of a State, City, or County, such Eligible Issuer must either commit the credit of, or pledge revenues of, the State, City, or County, or the State, City, or County must guarantee the Eligible Notes issued by such issuer. If the Eligible Issuer is a Multi-State Entity, the Eligible Notes will be expected to be parity obligations of existing debt secured by a senior lien on the Multi-State Entity's gross or net revenues.

d. Limit per State, City and County

The SPV may purchase Eligible Notes issued by or on behalf of a State, City, or County in one or more issuances of up to an aggregate amount of 20% of the general revenue from own sources and utility revenue of the applicable State, City, or County government for fiscal year 2017. The SPV may purchase Eligible Notes issued by a Multi-State Entity in one or more issuances of up to an aggregate amount of 20% of the Multi-State Entity's gross revenue as reported in its audited financial statements for fiscal year 2019. States may request that the SPV purchase Eligible Notes in excess of the applicable limit in order to assist political subdivisions and other governmental entities that are not eligible for the MLF.

e. Pricing and fees

The methodology for pricing is set forth [in an appendix to the latest facility term sheet](#). The notes will be subject to an origination fee equal to 10 basis points of the principal amount of the eligible issuer's notes purchased by the SPV. Origination fees may be paid from the proceeds of the issuance.

f. Prepayment right

With the approval of the SPV, Eligible Notes purchased by the SPV may be prepaid by the Eligible Issuer at any time, in whole or in part, at par (or, in the case of Eligible Notes purchased at a premium, par plus unamortized premium) plus accrued interest, prior to maturity.



Home



Summary



EMEA



AMERICAS



AP

Debt

g. Eligible use of proceeds

An Eligible Issuer may use the proceeds of Eligible Notes purchased by the SPV to help manage the cash flow impact of income tax deferrals resulting from an extension of an income tax filing deadline; deferrals or reductions of tax and other revenues or increases in expenses related to or resulting from the COVID-19 pandemic; and requirements for the payment of principal and interest on obligations of the Eligible Issuer or its political subdivisions or other governmental entities. An Eligible Issuer (other than a Multi-State Entity) may use the proceeds of the notes purchased by the SPV to purchase similar notes issued by, or otherwise to assist, political subdivisions and other governmental entities of the relevant State, City, or County for the purposes enumerated in the prior sentence.

h. Termination

The SPV will cease purchasing eligible notes on 30 September, 2020 (subject to any extensions by the Federal Reserve or the Treasury Department). The Federal Reserve will continue to fund the SPV after 30 September, 2020 until all of the underlying assets of the SPV mature or are sold.

6. Other actions

The Federal Reserve has taken other steps to increase liquidity and address market dislocations that have resulted from the pandemic. The Fed reduced the target range for the federal funds rate to 0% to 0.25%. It reduced reserve requirements for banks to zero and has encouraged banks to borrow from its discount window to meet their liquidity needs.

The Federal Reserve has also revived two other programs that were put in place in response to the 2008 financial crisis (i) a commercial paper funding facility, and (ii) a primary dealer credit facility, which is analogous to a discount window for primary dealers.

In addition, the Federal Reserve will provide a Money Market Mutual Fund Liquidity Facility (MMLF), which is similar to a liquidity facility that was created in response to the 2008 financial crisis (the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility).

The MMLF will make loans to financial institutions to purchase assets that money market funds are selling to meet redemption requests.

The Fed has also announced increased purchases of Treasury securities and agency MBS, and the provision of term repos.



Home



Summary



EMEA



AMERICAS



AP

Debt

7. Emergency actions under Section 13(3) of the Federal Reserve Act

The PMCCF, the SMCCF, the TALF, the Main Street program, the MLF, the commercial paper funding facility, the primary dealer credit facility and the MMLF are being provided under Section 13(3) of the Federal Reserve Act. That section allows Federal Reserve banks expanded lending and discounting powers to non-banks if authorized by the Board of Governors of the Federal Reserve and the US Treasury Department during "unusual and exigent circumstances."

Section 13(3) sets forth several requirements for financing programs undertaken thereunder. Among other things, the borrower cannot be insolvent, the program must have "broad-based eligibility," the Fed must have evidence that each "participant in any program or facility with broad-based eligibility is unable to secure adequate credit accommodations from other banking institutions," and that the Fed must ensure that "the security for emergency loans is sufficient to protect taxpayers from losses."

Section 13(3)(C) of the Federal Reserve Act provides that the Federal Reserve is to provide certain information to Congress relating to credit extended under Section 13(3) on a periodic basis. This information includes borrower identities and the material terms of the assistance provided to each borrower.

B. Treasury program

Assistance for mid-sized business under the CARES Act (Section 4003(c)(D)).

Section 4003(c)(D) of the CARES Act directs the Secretary of the Treasury to implement a program or facility to provide financing to banks and other lenders to make direct loans to eligible businesses including, to the extent practicable, nonprofit organizations, with between 500 and 10,000 employees. Any direct loans to such businesses would be subject to a 2% interest rate per year and would have no payable principal or interest for the first 6 months (or such longer period as the Secretary determines).

Eligible borrowers will need to make a good-faith certification that:

- the uncertainty of economic conditions as of the date of the application makes necessary the loan request to support ongoing operations of the borrower;
- the funds will be used to retain at least 90% of the workforce (including full compensation and benefits until 30 September, 2020);



Home



Summary



EMEA



AMERICAS



AP

Debt

- the borrower intends to restore not less than 90% of the workforce as of 1 February, 2020 and to restore all applicable compensation and benefits within 4 months after the termination date of the public health emergency declared by the Secretary of Health and Human Services on 31 January, 2020 related to COVID-19;
- the borrower is an entity or business that is domiciled in the United States with significant operations and employees located in the United States;
- the borrower is not a debtor in bankruptcy proceeding;
- the borrower is created or organized in the US (or under the laws of the US) and has significant operations in and a majority of its employees based in the US;
- the borrower will not pay dividends with respect to its common stock, or repurchase an equity security that is listed on a national securities exchange of the borrower or any parent company while the direct loan is outstanding, except to the extent required under a contractual obligation that is in effect as of the date of enactment of the CARES Act;
- the borrower will not outsource or offshore jobs for the term of the loan and 2 years after completing repayment of the loan;
- the borrower will not abrogate existing collective bargaining agreements for the term of the loan and 2 years after completing the repayment of the loan; and
- the borrower will remain neutral in any union organizing effort for the term of the loan.

The provisions under the CARES Act aimed at providing assistance to mid-sized businesses do not limit the ability of the Federal Reserve to establish a Main Street Lending Program or other similar program or facility that supports lending to small and mid-sized businesses.

Aviation

The CARES Act provides for a total of US\$46 billion in loans and loan guarantees for passenger air carriers, ticket agents, MROs, cargo air carriers, and "businesses critical to maintaining national security."

On Monday, 30 March 2020, the U.S. Treasury Department released preliminary [Procedures and Minimum Requirements for the loans](#) for the loans ("Procedures and Requirements") and [Guidelines and Guidelines and Application Procedures for the grants](#).



Home



Summary



EMEA



AMERICAS



AP

Debt

The CARES Act appropriate the following for loans to be made by the US Treasury:

- Up to US\$25 billion for "passenger air carriers" (defined in the Treasury guidance as an air carrier that, from 1 April 2019 to 30 September, 2019, derived more than 50% of its air transportation revenue from the transportation of passengers), ticket agents, and MROs;
- Up to US\$4 billion for "cargo air carriers" (defined in the Treasury guidance as an air carrier that, from 1 April, 2019 to 30 September, 2019, derived more than 50% of its air transportation revenue from the transportation of property or mail, or both); and
- Up to US\$17 billion for "businesses critical to maintaining national security."
- The CARES Act also provides for US\$32 billion in direct grants available for passenger air carriers, cargo air carriers, and contractors, to be used exclusively for employee wages, salaries and benefits, as follows:
 - Up to US\$25 billion for passenger air carriers;
 - Up to US\$4 billion for cargo air carriers; and
 - Up to US\$3 billion for contractors (or subcontractors) performing services under contract with a U.S. passenger air carrier operating under 14 C.F.R. Part 121 (including, but not limited to, cargo services providers, contractors providing services to passengers with disabilities, security companies, caterers, ticketing/check-in agents, ground handlers, and cleaning services).

Additionally, airports are eligible for up to US\$10 billion in grants to "prevent, prepare for, and respond to coronavirus." The CARES Act also suspends aviation excise taxes through the end of 2020, including taxes and fees on airline passenger tickets, cargo, and aviation jet fuel. Only U.S. companies are eligible to receive loans and grants.

While the CARES Act generally provides the aviation sector with the financial support it had publicly requested in recent days and weeks, the CARES Act establishes a number of conditions and oversight mechanisms to provide for transparency and accountability in how the grants and loans will be used.

Loans, Grants and Related Provisions

Loans

As directed under the CARES Act, the Treasury Department published preliminary Procedures and Requirements for the loans on 30 March 2020. These will be supplemented with additional terms and an application form, and may be revised, modified, or waived by the Treasury Department.



Home



Summary



EMEA



AMERICAS



AP

Debt

As part of the loan application process, borrowers must provide certain financial, employment and operational information, as detailed in the Procedures and Requirements, and are encouraged to begin compiling this initial list of information to expedite loan applications. There is no deadline within the Act for when loan funds must be disbursed.

As restated in the Procedures and Requirements, the CARES Act enumerates a number of terms and conditions applicable to the loans, including:

- Loan interest rates, "to the extent practicable," will not be less than an interest rate based on market conditions for comparable obligations prior to the outbreak of COVID-19;
- The duration of the loan must be as short as practicable and in any case not longer than five years;
- Indebtedness may not be reduced through loan forgiveness;
- Through 30 September, 2020, borrowers must maintain employment levels as of 24 March 2020, "to the extent practicable," but in any case may not reduce employment by more than 10% from the levels on that date;
- Borrowers may not pay dividends until one year after the loan or loan guarantee is no longer outstanding;
- Borrowers or any affiliates may not buy back stock (unless required under pre-existing contractual obligations) until one year after the loan or loan guarantee is no longer outstanding. The Secretary is authorized to waive this requirement if necessary to protect the interests of the Federal Government, but to do so the Secretary would have to testify before the Senate Banking Committee and the House Financial Services Committee to explain the reasons for the waiver;
- Companies seeking loans must be: 1) created or organized in the U.S.; and 2) have significant operations and a majority of employees in the U.S.;
- Limits on compensation for certain employees and officers beginning the date on which the agreement is executed and ending one year after the date on which the loan or loan guarantee is no longer outstanding; and
- The U.S. Secretary of Transportation may require, to the extent reasonable and practicable, that carriers accepting loans maintain air service to any point served before 1 March 2020 through 1 March, 2022 at the latest, with special consideration given to small communities and to the maintenance of health care and pharmaceutical supply chains.



Home



Summary



EMEA



AMERICAS



AP

Debt

The CARES Act also contains the following oversight mechanisms:

- The Act creates a Special Inspector General For Pandemic Recovery ("Special Inspector General") within the Department of the Treasury, who will be appointed by the President with the advice and consent of the Senate. The Special Inspector General is charged with overseeing and auditing the making, purchasing, management, and sale of loans, loan guarantees, and other investments made by the Treasury Secretary under the Act and must submit detailed reports to "the appropriate committees of congress;" and
- The Act creates a bipartisan, five-member Congressional Oversight Commission that is charged with overseeing the implementation of the law, must release reports every thirty days, and is empowered to hold hearings, take testimony and receive evidence.

Grants

The CARES Act provides US\$32 billion in grants for air carriers and eligible contractors/subcontractors, which must be used exclusively for employee wages, salaries, and benefits -- US\$25 billion is allocated for passenger air carriers, US\$4 billion is allocated for cargo air carriers, and US\$3 billion is allocated for contractors/subcontractors.

On 30 March 2020, the Treasury Department also released guidance for grant applicants. Air carriers and contractors are instructed to file by 5:00 p.m. EDT on 3 April, 2020. Among other terms and conditions detailed in the guidance, applicants must identify the total amounts they paid to employees in (a) wages and salaries, (b) benefits, and (c) other compensation, in each month between April 2019 and September 2019.

Applications received after 3 April, 2020 will be considered but may take longer to process. Applications received after 27 April, 2020 may not be considered. Under the Act, initial payments to applicants must be made no later than 6 April, 2020.

The CARES Act enumerates the following conditions for grants:

- Each carrier or contractor is entitled to grant assistance in an amount equal to the salaries and benefits of its employees between 1 April, 2019 and 30 September, 2019;
- Grant recipients must agree not to conduct involuntary furloughs or reduce pay rates or benefits through 30 September, 2020;
- Grant recipients may not pay dividends or buy back shares of stock until 30 September, 2021, and must agree to limits on employee/officer compensation from 24 March 2020 through 24 March 2022; and



Home



Summary



EMEA



AMERICAS



AP

Debt

The U.S. Secretary of Transportation may require, to the extent reasonable and practicable, that carriers accepting grants maintain air service to any point served before 1 March 2020 through 1 March 2022 at the latest, with special consideration given to small communities and to the maintenance of health care and pharmaceutical supply chains.

Airports

The CARES Act allocates US\$10 billion in grants for airports to "prevent, prepare or, and respond to coronavirus." The grants are only available to airport sponsors (i.e., public agencies and private owners of public-use airports) and must be for purposes directly related to airports. The airport grants will be allocated by formula -- US\$3.7 billion will be allocated among all commercial airports based on each airport's percentage of calendar year 2018 enplanements; another US\$3.7 billion will be allocated among all commercial service airports based on each sponsor's debt service and unrestricted reserves. In addition, the CARES Act reserves US\$100 million for general aviation airports. Hub and primary airports receiving grants must continue to employ at least 90 percent of their current number of employees through 31 December, 2020 (excluding retirements or voluntary separations). The Secretary may waive this requirement upon determining that the airport is experiencing economic hardship as a result of the requirement, or that adherence to the requirement reduces aviation safety or security.

U.S. Government Ownership in Aid Recipients

Under the CARES Act, and as clarified in the loan Procedures and Requirements, the Treasury Department may not issue a loan to (1) a borrower that has issued securities that are traded on a national securities exchange unless the Treasury Department receives a warrant or equity interest in the borrower, or (2) any other borrower unless the Treasury Department receives, in the discretion of the Treasury Department, a warrant or equity interest in the borrower, or a senior debt instrument issued by the borrower. These requirements appear to give the Treasury Department considerable discretion in determining what warrants, equity interests, or senior debt instruments it will accept from borrowers. The loan Procedures and Requirements also instruct applicants to identify the financial instruments they propose to issue to the Treasury Department. For grants, the Secretary is not required to receive financial instruments in return, but "may" choose to receive warrants, options, preferred stock, debt securities, or other instruments which, in the Secretary's sole determination, "provide appropriate compensation" to the government. Secretary Mnuchin has reportedly indicated that the government will choose to take equity stakes in airlines receiving grants. Consistent with these reports, grant applicants are required by the application procedures released by the Treasury Department to identify financial instruments that will provide appropriate compensation to the Federal Government for the grants received.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is state support for distressed business available?

Yes. The Coronavirus Aid, Relief and Economic Security Act ("CARES Act") provides certain financing programs that are available to certain businesses. In general, there are four main categories of financing under the CARES Act: (i) SBA-guaranteed loans for paycheck protection and economic injury disaster loans, in each case provided to businesses with 500 or fewer employees (the paycheck protection loans are forgivable to the extent that they are used for payroll and other compensation purposes); (ii) loans made by the Federal Reserve to investment grade companies under its Primary Market Corporate Credit Facility; (iii) a Main Street lending program for companies with between 500 and 1,000 employees and up to USD 2.5 billion; and (iv) specific grants and loans for airlines and related businesses and for other businesses "critical to maintaining national security." There are other Federal Reserve programs available, including: (i) a municipal lending facility for US states, cities and counties; (ii) a Term Asset-Backed Securities Loan Facility, which allows US financial institutions to receive loans against collateral pledged to the Federal Reserve; (iii) a Secondary Market Corporate Credit Facility, which provides secondary market support for debt trading of obligations issued by investment grade companies; (iv) a Commercial Paper Funding Facility; (v) a Primary Dealer Credit Facility; and (vi) a Money Market Mutual Fund Liquidity Facility

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Yes. Under the CARES Act, the eligibility requirements for small business debtor reorganizations were modified. As revised, an eligible debtor is a person engaged in commercial or business activities (excluding a person whose primary activity is the business of owning single asset real estate) that has aggregate debts in an amount not more than USD 7,500,000 (excluding debts owed to affiliates or insiders), no less than 50% of which arose from the commercial or business activities of the debtor.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

No.

Equity

No (semi-) equity measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate income tax

Post-TCJA Limitations on NOLs Relaxed: For NOLs taxpayers generate in taxable years beginning in taxable years beginning after 31 December 2017 and before 1 January 2021, the CARES Act allows taxpayers to use their NOLs without the TCJA's 80% limitation to taxable income. This approach fully preserves these deductions. The CARES Act also allows taxpayers to carry certain losses back five years. Taxpayers that wish to carry back NOLs to prior years may exclude the year that includes the Section 965 transition tax from the carry back and will not have to use their NOLs against the Section 965 inclusion, which is taxed at a lower rate. There are also special rules for REITs and life insurance companies.

CARES Act §2303.

Taxpayers that wish to carry 2020 NOLs back to prior years must wait until they file their 2021 returns to do so.

Modification of Limitation on Losses for Non-Corporate Taxpayers: The CARES Act essentially eliminates the limitation on excess business losses under Section 461(l) for taxable years beginning in 2018, 2019, and 2020. This change delays the limitation of the use of excess business losses for three years from the effective date for the TCJA. The CARES Act fixes the carryforward rule for excess business losses, and takes certain deductions, capital losses, and capital gains out of the calculation for excess business losses. Further, any deductions, gross income, or gains attributable to any trade or business of performing services as an employee are disregarded in determining a taxpayer's excess business loss.

CARES Act §2304.

Acceleration of Refundable Alternative Minimum Tax ("AMT") Credits: Rather than spreading refund claims for AMT credits over tax years beginning in 2018, 2019, 2020, or 2021, the CARES Act accelerates a taxpayer's ability to claim a refund of its AMT credits by making an election to claim the entire amount of the credit in their 2018 taxable year and, therefore, provides taxpayers with an opportunity for increased liquidity. Alternatively, instead of electing to claim the entire amount in the 2018 taxable year, a taxpayer may claim the refund in its 2018 and 2019 taxable years. The Act instructs taxpayers to file a tentative claim for refund and instructs Treasury to process those refund claims within 90 days of the date that the claim is filed. **CARES Act §2305.**

Charitable Contribution Limits: The CARES Act allows corporate taxpayers to elect to raise the limitation on qualifying charitable contributions under Section 170(c) from 10% of taxable income to 25% of taxable income. Contributions must be paid in cash during 2020 to qualifying organizations. **CARES Act §2205.**



Home



Summary



EMEA



AMERICAS



AP

Taxation

Temporary relaxation of the section 163(j) limitation: The CARES Act increases the interest limit from 30% of adjusted taxable income (ATI) to 50% of adjusted taxable income for tax years beginning in 2019 and 2020 and would allow taxpayers to substitute their (presumably higher) 2019 ATI for their 2020 ATI to further increase the amount of their interest deduction. A taxpayer may elect not to have the increased 50% limitation apply to any taxable year. Once an election is made, it cannot be revoked without the Secretary's consent. **CARES Act §2306.**

Special Rule for Partnerships — With respect to partnerships, the increase to 50% of ATI is limited to the 2020 taxable year, however a similar benefit is given for the 2019 taxable year directly at the partner level. For 2019, with respect to any excess business interest of the partnership allocated to the partner—(i) 50% is treated as business interest paid or accrued by the partner in the partner's first taxable year beginning in 2020 and which is not subject to the ATI limitations, and (ii) 50% is subject to the regular limitations of excess business interest allocated to the partner. The partner can elect not to have this special rule to apply.

Immediate Expensing of Qualified Improvement Property (Technical Correction): The CARES Act includes the 15-year recovery period for qualified improvement property, which encompasses the former definitions of qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property. Thus, QIP is "qualified property" under Section 168(k) and taxpayers can immediately expense the cost of QIP through their 2022 taxable year. The Act clarifies the definition of QIP to limit QIP so that it only includes improvements made by the taxpayer. Finally, for purposes of the alternative depreciation system, QIP is given a class life of 20 years.

Unless Treasury issues guidance providing a different mechanism, taxpayers may have to file an amended return to benefit from this change. **CARES Act §2307.**

Filing and Payment Extensions: Taxpayers required to file tax returns and make accompanying payments on or before 15 April 2020, must now file such returns or pay such taxes by 15 July 2020. There is no cap on the payment of tax that may be postponed, and taxpayers are not required to file Form 4868 or Form 7004 to take advantage of the postponement. Interest, penalties, and additions to tax will not accrue during the postponement period. [Notice 2020-18](#).

On 24 March 2020, the IRS released [Filing and Payment Deadlines Questions and Answers](#) clarifying that the due date for estimated BEAT payments and Section 965(h) transition tax installment payments has also been delayed to 15 July 2020. First quarter estimated income tax payments for the 2020 tax year are similarly postponed from 15 April to 15 July. Notice 2020-18 includes special rules for tax-exempt organizations.



Home



Summary



EMEA



AMERICAS



AP

Taxation

On 25 March 2020, the IRS issued an [additional FAQ](#) extending the time for a Reporting Model 2 Foreign Financial Institution ("FFI") or a Participating FFI to file the FATCA Report (Form 8966) to the IRS. The filing deadline for Form 8966 is extended from 31 March 2020 to 15 July 2020. FFIs are not required to file an application for extension.

People First Initiative: On 25 March 2020, the IRS announced relief measures ranging from easing payment structures to postponing compliance actions in response to COVID-19. These measures include suspending any new audits. [IR-2020-59](#).

Electronic Signature Relief: On 27 March 2020, the IRS issued a memorandum explaining that it will temporarily accept documents by email and digital signatures on certain documents. Such documents include: following documents: extensions of statute of limitations on assessment or collection, waivers of statutory notices of deficiency and consents to assessment, agreements to specific tax matters or tax liabilities (closing agreements), and any other statement or form needing the signature of a taxpayer or representative traditionally collected by IRS personnel outside of standard filing procedures (for example, a case specific Power of Attorney).

Social security / Employment / Wage taxes / Personal Income Tax

Deferral of Employer Payroll Taxes: The CARES Act delays the payment due date for the employer share of social security taxes (the 6.2% tax borne by employers on wages up to the social security wage base) and railroad retirement act taxes, for the period from enactment until 31 December 2020. These taxes will be due 50% on 31 December 2021, and 50% on 31 December 2022. Deposit penalties will not apply due to the delayed payment. As currently drafted, the relief does not apply to taxpayers that have indebtedness forgiven under certain section 7(a) Small Business Act loans addressed or in connection with a short-term compensation agreement. **CARES Act §2302.**

Tax Credit for Employee Retention: The CARES Act provides a refundable payroll tax credit equal to 50% of the wages paid by employers to employees for each calendar quarter during the COVID-19 crisis. The credit applies to, and is limited to, the first USD 10,000 of compensation, including health benefits, paid to an eligible employee. The credit applies to wages paid from 13 March 2020 through 31 December 2020, and is allowed against the employer's share of social security taxes (the 6.2% tax borne by employers on wages up to the social security wage base) and railroad retirement act tax.

The credit is available to two categories of employers. The first is an employer with business operations in 2020 that are partially or fully suspended due to a government order limiting commerce, travel, or group meetings as a result of COVID-19. The second category is an employer with business gross receipts in a calendar quarter in 2020 that are less than 50% of the business gross receipts for the same calendar quarter in 2019. An employer that receives a Small Business Interruption Loan is ineligible for the credit.



Home



Summary



EMEA



AMERICAS



AP

Taxation

The credit is based on "qualified wages" paid to the employee. For employers with greater than 100 full-time employees in 2019, "qualified wages" are wages paid to employees when they are not providing services due to COVID-19-related circumstances. For eligible employers with 100 or fewer full-time employees in 2019, all employee wages qualify for the credit without regard to whether the employee is performing services during the relevant period.

The Act directs Treasury to issue forms, instructions, regulations, and guidance to allow the advance payment of the credit, recapture of the credit if an employer receives a Small Business Interruption Loan, application of the credit to third party payors, and application of the 50% business gross receipts test if the employer was not carrying on business in 2019. **CARES Act §2301.**

[FAQs: Employee Retention Credit under the CARES Act](#) released 31 March 2020:

Relief from Penalty for Failure to Deposit Unemployment Taxes: [Notice 2020-22.](#)

Paid Sick Leave Refundable Credit: The EPSLA requires Eligible Employers to provide employees with paid sick leave if the employee is unable to work (including telework) due to any of the following:

- the employee is under a Federal, State, or local quarantine or isolation order related to COVID-19;
- the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- the employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- the employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- the employee is caring for the child of such employee if the school or place of care of the child has been closed, or the child care provider of such child is unavailable, due to COVID-19 precautions; or
- the employee is experiencing any other substantially similar condition.

Employment Tax Credits Under Family First Coronavirus Response Act: Employment tax credits for paid qualified sick leave and family leave wages under the Families First Coronavirus Response Act will apply to wages and compensation paid for periods beginning on 1 April 2020, and ending on 31 December 2020. [Notice 2020-21](#); [Families First Coronavirus Response Act: Questions and Answers.](#)



Home



Summary



EMEA



AMERICAS



AP

Taxation

VAT

N/A

Excise / Import duties

Excise Tax Provisions: The CARES Act provides a waiver of the Federal excise tax on distilled spirits used for or contained in hand sanitizer that is produced and distributed in a manner consistent with Food and Drug Administration guidance. This waiver applies to spirits removed after 31 December 2019, and is effective only for calendar year 2020. **CARES Act §2308.**

On 26 March 2020, the TBB released additional guidance regarding production of hand sanitizer to address the COVID-19 pandemic at [TTB G 2020-1A](#).

The Act also suspends the air transportation excise tax on amounts paid for transportation of both passengers and cargo from 27 March 2020 through 31 December 2020. **CARES Act § 4007(a).**

Other taxes

Gift and GST Tax Extension: The due date for filing the federal gift tax return (Form 709) and paying federal gift or generation-skipping transfer (GST) tax is automatically extended to 15 July 2020. No interest, penalty, or addition to tax for failure to file or pay tax will accrue until 16 July 2020, as a result of the extension. Taxpayers do not need to file Form 8892 to receive the extended due date for filing Form 709 and paying gift or GST tax until 15 July 2020. A taxpayer may choose, however, to file Form 8892 by 15 July 2020, to obtain an extension to file Form 709 by 15 October 2020. Any gift or GST tax postponed by the Notice, however, would still be due on 15 July 2020. [Notice 2020-20](#).

Comments

Treasury Is Authorized to Provide Up To USD 500 Billion in Liquidity: The CARES Act also grants the Treasury Secretary authority to provide up to USD 500 billion in loans, loan guarantees, and "other investments" to support qualifying businesses, states, and municipalities. This funding comes with restrictions. Among other things, loan recipients may not buy back stock or pay dividends until 12 months after the loan or loan guarantee is no longer outstanding. Loan recipients must also maintain employment at pre-24 March 2020 levels through 30 September 2020 "to the extent practicable." Even if maintaining employment at pre-24 March 2020 levels is not practicable, loan recipients may not in any case reduce employment by more than 10% below the level on 24 March 2020. Treasury was explicitly granted authority to issue guidance providing that any equity issued under this provision does not result in a Section 382 ownership change. **CARES Act §4003.**



Home



Summary



EMEA



AMERICAS



AP

Taxation

Loans for Mid-Sized Businesses: The CARES Act provides for a program to aid mid-size businesses and non-profits with between 500 and 10,000 employees. These mid-sized businesses must make certain certifications regarding workforce retention, benefits, and pay, among other things.

Loans for Small Businesses: The CARES Act also provides for a program supporting certain tax-exempt organizations with fewer than 500 employees. Loan proceeds can be used for payments such as payroll support, mortgage payments, rent, utilities and debt obligations and include several lending incentives. This program cannot be used in conjunction with the retention credit and payroll tax deferral options previously mentioned. **CARES Act**



To read more about this topic, please see these alerts:

Increased flexibility for taxpayers in section 125 cafeteria plans in response to COVID-19

State and local tax responses to COVID-19: corporate income tax and sales and use tax deadline extensions

Changing the past - CARES Act depreciation method and interest deduction opportunities

IRS provides COVID-19 relief for tax deadlines and tax payments and 60-day relief for foreign nationals' day of presence

IRS's increased use of FAQs to implement the CARES Act

The CARES Act and ASC 740



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

No specific measures have been introduced in response to COVID-19.

Insolvency

Is state support for distressed business available?

No.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

No.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

No.

Taxation

Corporate income tax

The Government exonerated from income tax liability the annual Venezuelan-source net taxable income obtained by resident individuals during fiscal period 2019, whose normal salary or income derived from the exercise of their activity, at the closing of said period, do not exceed the amount equivalent to three (3) minimum wages in force as of 31 December 2019. In practice, it means that there was an increase in the base exemption from 1,000 to 9,000 Tax Units (VES 450,000 or USD 9.65) for fiscal year 2019. Consequently, the exemption benefits taxpayers, whether employees or not, that, in fiscal year 2019: (i) had annual global net income greater than 1,000 Tax Units or gross annual income greater than 1,500 Tax Units; and (ii) had net taxable income of VES 450,000 (USD 9.65) or less. The tax benefit was granted after the term for individuals to file and pay income tax for fiscal year 2019 was expired. Therefore, for those taxpayers who already paid the tax for the moment the benefit was granted, the benefit itself would come in the form of a tax credit for future national tax obligations other than Value Added Tax.

Social security / Employment / Wage taxes / Personal Income Tax

To date, no measures have been implemented.



Taxation

VAT

To date, no general measures have been implemented. The Government granted a one year VAT exoneration for the imports of products that may combat or prevent COVID-19.

Excise / Import duties

The Government granted a one year import duties exoneration to the imports of products that may combat or prevent COVID-19.

On 24 March 2020, the Government added 77 tariff codes to the list of imported goods that are exempted until 30 June 2020 from the payment of Value Added Tax (VAT), Import Tax and the Customs Regime Determination Fee, carried out by entities of the National Public Administration, as well as those imports carried out by individuals and legal entities with their own resources.

Other taxes

Certain Municipalities have granted an extension to file and pay taxes (only applicable at a Municipal level).

The legislation in force allows the interpretation that the terms and deadlines for filing tax returns and paying taxes are not currently running and automatically extend until the day banking activities to the public resume. However, the National Tax Authorities have not followed the statutory provisions and some public banks have opened to collect tax funds. The result is no extension or benefits granted in fact to taxpayers with respect to national taxes (i.e. income tax; VAT or Financial Transactions Tax).

Comments

The Plenary Chamber of the Supreme Tax Court has declared the suspension of procedural legal terms between 16 March and 13 April 2020.

Asia Pacific



Australia



Singapore



China



Taiwan



Hong Kong



Thailand

NEW



Indonesia

NEW



Vietnam



Japan



Malaysia

NEW



Philippines





Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

The Australian Government has announced temporary changes (effective from 29 March 2020) to its foreign investment review framework so as to protect the national interest in light of the economic implications arising from the spread of COVID-19.

All proposed foreign investments into Australia subject to the Foreign Acquisitions and Takeovers Act 1975 (Cth) ("the Act") will require FIRB approval, regardless of the value of the investment or the nature of the foreign investor, where the other conditions for notification are met.

This reflects the monetary thresholds that apply to "foreign government investors", and private acquisitions in Australian media businesses, residential land proposals, mining and production tenements, and vacant commercial land proposals.

While the dollar sum "threshold test" will be met in relation to all acquisitions in Australian entities, businesses or land, the other conditions of a significant or notifiable action must also be met. There is no change to the meaning of "significant action" and "notifiable action" as presently provided.

As under the existing framework, acquisitions by private foreign investors of less than 20% in an Australian entity generally do not require approval (exceptions to this are Australian agribusinesses and land entities which require approval for acquisitions of more than 10%). This will continue to be the case.

To ensure sufficient time for screening applications, FIRB will extend the statutory timeframes for reviewing applications from 30 days to up to six months.

The new rules will not apply to agreements entered into prior to 10:30 pm AEDT 29 March 2020, including acquisitions that have not yet completed. FIRB has emphasized that the changes are temporary measures that will remain in place for the duration of the coronavirus crisis



To read more about this topic, please see this alert: [Dealing with FIRB approval and leases](#)



Home



Summary



EMEA



AMERICAS



AP

Debt

The Australian Government, the Reserve Bank of Australia and the Australian Prudential Regulation Authority (APRA) have implemented the following measures to support the flow of credit in the Australian economy: Establishment of the Coronavirus SME Guarantee Scheme (CSGC) under which the Government will provide a guarantee of 50% to SME lenders to support new short-term unsecured loans to SMEs. The CSGC will guarantee up to A\$40 billion in new lending. Announcement of a term funding facility for the banking system. Banks will have access to at least A\$90 billion in funding at a fixed interest rate of 0.25%. To encourage lending to businesses, the facility offers additional low-cost funding to banks if they expand their business lending, with particular incentives applying to new loans to SMEs.

Announcement of a six month debt repayment deferral to SME borrowers holding less than A\$10 million in total debt. Further easing of the monetary policy by reducing the cash rate to 0.25%. Provision of \$15 billion to be invested in the structured finance market used by non-Authorised Deposit-Taking Institutions (non-ADIs) and smaller ADI lenders. Grant of temporary exemption from responsible lending obligations to lenders providing credit to existing small business customers. The exemption is valid for 6 months, and applies to any credit for business purposes, including new credit; credit limit increases; and credit variations and restructures.

Process to get support

For the CSGC, companies should visit the website of the Treasury (<https://treasury.gov.au/economic-response-coronavirus-coronavirus-sme-guarantee-scheme/list-participating-lenders>) and approach one of the listed participating lenders with their borrowing proposal. The decision on whether to extend credit, and management of the loan, will remain with the lender.

Insolvency



Is state support for distressed business available?

Yes, extensive federal government stimulus measures have been announced, substantially effected through the taxation system, and are regularly evolving, including taxation measures and an AUD 130 billion "JobKeeper" package funding employers to continue to retain employees during the COVID-19 pandemic.

The states and territories are looking to legislate specific relief for COVID-19 affected tenants in the short term, consistent with National Cabinet Mandatory Code of Conduct SME Commercial Leasing Principles During COVID-19 ("Code").



Home



Summary



EMEA



AMERICAS



AP

Insolvency



The legislation the Code anticipates will apply to commercial tenants with annual turnover of up to AUD 50 million (SMEs), and is intended to result in reduced rents proportionate to the tenant's COVID-19 reduced revenues, up to 100%. This is intended to be achieved at least 50% by rent waivers, with the balance permitted to be by deferral, with any government concessions (such as reduced land tax) to be passed through to the tenant. The Code anticipates a range of other protections, such as freezes on rent increases, extensions to leases reflecting the period of the waiver/deferral of rent, and preventing landlords acting on reduced opening hours by tenants.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

A new "COVID-19" defense to the insolvent trading prohibition has been introduced, where debts are incurred in the period from 25 March 2020 to 24 September 2020 in the ordinary course of the company's business.

In addition, the Corporations Act has been amended to require a statutory demand issued to a debtor during the COVID-19 pandemic to be for a minimum of AUD 20,000 (previously AUD 2,000) and giving the debtor company six months to comply with the statutory demand or apply to set it aside (previously 21 clear days).

The states and territories are looking to legislate specific relief for COVID-19 affected tenants in the short term, consistent with the Code.

Although not a government body, the Australian Banking Association (ABA) has committed its members (including the "Big 4" Australian banks, being Westpac, National Australia Bank, ANZ and Commonwealth Bank) to 6-month deferrals of loan repayments on residential and some smaller business loans.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

No. The insolvency profession is discussing whether counterparties to insolvent companies need specific protection, given that they will be highly exposed to unfair preference claims in respect of payments received during the COVID-19 pandemic from companies that go into liquidation within six months.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate income tax

N/A

Social security / Employment / Wage taxes / Personal Income Tax

JobKeeper payments to employers - eligible businesses impacted by COVID-19 may be able to access a subsidy from the Commonwealth Government to assist with paying their employees, up to a fortnightly payment of AUD 1,500 per eligible employee for a maximum of 6 months.

Payroll tax - most state and territory governments have proposed measures to assist taxpayers in meeting their payroll tax obligations (including waivers, deferrals, grants and changes in thresholds).

VAT

See **Payment Deferrals** in Comments.

Excise / Import duties

See **Payment Deferrals** in Comments.

Other taxes

N/A

Comments

The **instant asset write-off (IAWO)** threshold has been increased from AUD 30,000 to AUD 150,000 and is accessible to businesses with aggregated turnover below AUD 500 million.

Accelerated depreciation deduction measures - businesses with aggregated turnover below AUD 500 million may be able to access allowable deductions including 50% of the cost of eligible assets.

Cash flow payments to employers - businesses with an aggregated turnover of less than AUD 50 million may be eligible to receive up to AUD 100,000 in tax-free payments.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Changes to monthly BAS reporting - businesses with a GST turnover of less than AUD 20 million are allowed to change to monthly BAS reporting to access BAS refunds faster.

Payment deferrals - eligible businesses can apply to defer the payment date of amounts due through the BAS (including GST), income tax assessments, FBT assessments and excise by up to 6 months.

Changes to monthly BAS reporting - businesses with a GST turnover of less than AUD 20 million are allowed to change to monthly BAS reporting to access BAS refunds faster.

PAYG Concessions - the ATO has offered various PAYG concessions to eligible taxpayers including varying their instalments from the March 2020 quarter to 0.

Remission of interest and penalties - the ATO will consider remitting interest and penalties incurred after 23 January 2020 to taxpayers affected by COVID-19.

Low interest payment plans - taxpayers affected by COVID-19 may discuss entering into a low interest payment plan with the ATO to help pay existing and ongoing tax liabilities.

Temporary and permanent cessation - the ATO has provided informal guidance for actions businesses should take should it cease its operations, either temporarily or permanently, including information for Single Touch Payroll (STP) reporters who have let employees go.



To read more about this topic, please see this alert: [COVID-19 - preparing for tax reform?](#)



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

The Chinese foreign investment approval regulators have resumed their operation, but are not yet back to normal operation. They have issued certain circulars to encourage the use of electronic versions of application documents in lieu of the paper form application documents in order not to delay the application processes. We are not seeing any government order or action to prevent foreign takeovers.

Debt

Debt financing relief:

The People's Bank of China (PBOC) and the Ministry of Finance (MOF) have promulgated measures (Measures) to provide financing support to the companies related to the controlling of COVID-19 (Qualified Borrower).

PBOC will provide low cost capital to the PRC banks for the PRC banks to provide financing support to the companies related to the controlling of COVID-19. MOF will provide interest subsidization to the Qualified Borrowers.

A Qualified Borrower is a company that produces epidemic prevention supplies (i.e., ventilators, disinfectant, protective clothing, masks, goggles, etc.).

The Measures are not directly provided to companies - companies need to apply for the financing support from the PRC banks. Information page:

<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/3969065/index.html>



Home



Summary



EMEA



AMERICAS



AP

Debt

Debt moratoria measures:

The below outlines the measures promulgated by the People's Bank of China (PBOC), the Ministry of Finance (MOF), China Banking and Insurance Regulatory Committee (CBIRC) and other departments of the Chinese government in providing financing support to counter the COVID-19.

If a small and micro enterprise is affected by the epidemic of COVID-19 and is not able to repay its loan, the financial institution providing the loan to the small and micro enterprise may not mandatorily require the borrower to repay the loan. The financing institution may consider, as appropriate, to lower the interest rate, extend the loan or provide refinancing.

The measures impact payments of both principal and interest.

Borrower qualification criteria – the borrower must be:

- in financial difficulties caused by the epidemic of COVID-19;
- a small and micro enterprise. Pursuant to the PRC regulations, small and micro enterprise means an enterprise which:
 - i. its total assets value is under RMB 50 million;
 - ii. its total employees are under 300; and
 - iii. the amount of its taxable income is under RMB 3 million.

Other points to note:

- Provided that the debtor meets these requirements, the measures apply equally to regulated and unregulated debtors.
- The suspension of loan repayments only applies to financing agreements with borrowers who qualify as small and micro enterprises under the PRC law (outlined above).
- The measures are only applicable to domestic lenders (including the PRC subsidiaries established by foreign lenders which are subject to the supervisions of PBOC and CBIRC).
- The measures are not applicable to bonds.
- The measures are applicable to the loans borrowed by the PRC small and micro enterprises from the PRC lenders.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Dissolution proceedings: No.

Bankruptcy proceedings: Yes, due to the outbreak of coronavirus, Chinese government authorities have promulgated several policies to support Chinese enterprises in tackling this crisis. Such support mainly concerns offering better financing policies, strengthening monetary and credit support, deferring payment for taxations and social securities, etc.

For example, the People's Bank of China, the Ministry of Finance, the China Banking and Insurance Regulatory Commission and some other departments issued the Notice of Further Strengthening Financial Support for the Prevention and Control of the Epidemic of Novel Coronavirus Pneumonia, which introduced several measures to support Chinese enterprises, including increasing credit support in fields related to epidemic prevention and control, granting extensions or renewals of loans to enterprises that are severely affected by the epidemic and are struggling to make payments, lowering lending rates and increasing fiduciary loans and medium- and long-term loans to relevant enterprises, etc.

Apart from financial and credit support, the Ministry of Industry and Information Technology issued policies to promote deferred payments on electricity, water and gas necessary for the production and operation of small and medium enterprises during the epidemic period, and to implement the measure of "non-stop supply" during the deferred period.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Dissolution proceedings: No.

Bankruptcy proceedings: No.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Dissolution proceedings: Yes. In June 2019, the National Development and Reform Commission, the Supreme People's Court, the Ministry of Industry and Information Technology and several other departments jointly issued the Reform Plan for Accelerating Improvement of the Exit System for Market Participants ("**Reform Plan**"), which generally requires further clarification of the methods for the exit of market participants and the improvement of conditions, standards and specific procedures for a well-regulated exit.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



In addition, the Reform Plan particularly requires different government departments to undertake corresponding responsibilities to improve the dissolution proceedings, as well as the bankruptcy proceedings. The topics mentioned in the Reform Plan are still under discussion.

In terms of the improvement of dissolution proceedings, the Reform Plan not only requires the regulation of exit by voluntary dissolution, but also states that exit by involuntary dissolution should be implemented steadily and properly. In terms of voluntary dissolution, the Reform Plan emphasizes that enterprises should stipulate the causes of dissolution in their AOA. Unless otherwise provided by law, upon the occurrence of a cause of dissolution, the market participant will pass a resolution to dissolve according to the governance procedure and voluntarily leave the market.

As for involuntary dissolution, the Reform Plan requires the following:

1. Strictly define the conditions for market participants to exit by involuntary dissolution arising from the provisions of the government's public policies, steadily and properly handle related post-exit matters and protect the property of market participants.
2. Harmonize standards and procedures for the exit of market participants by involuntary dissolution.
3. Establish a remedy procedure for exit by involuntary dissolution to guarantee the lawful rights and interests of exiting market participants and stakeholders.
4. Improve the mechanism for the connection between liquidation in dissolution and liquidation in bankruptcy proceedings of companies.

Bankruptcy proceedings: The Reform Plan seeks to improve the bankruptcy regime for enterprises. Several requirements are set out in the Reform Plan, including but not limited to:

1. improving the institution and trial procedures for enterprise bankruptcy, specifically:
 - a) researching and studying the necessity and feasibility of imposing on senior management and other relevant responsible persons of enterprises the obligation to apply for bankruptcy liquidation or revival proceedings in a timely manner when the enterprises experience financial difficulty,
 - b) improving the rules of rankings of debts in bankruptcy proceedings,
 - c) establishing a summary procedure for bankruptcy trials,
 - d) improving the rules of cross-border bankruptcy and the bankruptcy of affiliate enterprises, etc.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



2. studying the establishment of a pre-revival and extrajudicial revival regime, specifically:
 - a) improving the system of financial institution creditors' committees and specifying the mechanism for procedure shifts and recognition of the effect of resolutions between the system of financial institution creditors' committees and the system of judicial creditors' committees,
 - b) studying the establishment of a pre-revival system and specifying the legal status and contents of a pre-revival system,
 - c) enhancing the credibility and binding force of an extrajudicial revival system,
 - d) achieving an effective connection between the extrajudicial revival system, the pre-revival system and the bankruptcy revival system,
3. improving the bankruptcy revival regime, specifically:
 - a) refining and improving the implementation rules for the revival proceedings,
 - b) specifying the examination standards and the legal basis for the compulsory approval of revival plans and regulating courts' power to exercise the compulsory approval of revival plans,
 - c) improving the group voting mechanism in the revival proceedings,
 - d) optimizing the administrator system and management models, specifying the boundaries of rights between administrators and debtors, and administrators and creditors,
 - e) reasonably involve debtors to operate business in the revival proceedings,
 - f) establishing a mechanism to recruit personnel with professional qualifications and the capability to participate in the operation and management of enterprises under revival proceedings.

Equity

No (semi-) equity measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate income tax

Effective from 1 January 2020, a company's donation of cash and materials to support the prevention of COVID-19 can be fully deducted when calculating enterprise income tax (EIT). The incentive only applies if the company donates cash and materials through public welfare social organisations or governments at or above county level, or directly donates materials to hospitals undertaking COVID-19 prevention and control tasks. Effective from 1 January 2020, the carry-forward period of losses incurred in 2020 by a company in the transportation, catering, accommodation and tourism industries has been extended from 5 years to 8 years. Certain conditions apply.

Effective from 1 January 2020, the relevant equipment newly purchased by qualified key enterprises for the production of guarantee materials in epidemic prevention and control to expand production capacity are allowed to be deducted at once before EIT.

Social security / Employment / Wage taxes / Personal Income Tax

Social Security

Effective from February 2020, the following measures regarding social security premiums apply:

- i. Hubei Province can exempt companies in Hubei from the companies' contributions for basic retirement insurance, unemployment insurance, and work injury insurance premiums (collectively, "social security premiums"). The exemption period cannot exceed five months.
- ii. Provinces other than Hubei can exempt middle-to-small scale companies from the companies' contributions for social security premiums. The exemption period cannot exceed five months.
- iii. Provinces other than Hubei can reduce the companies' contributions for social security premiums to 50% for large companies. The reduced-payment period cannot exceed three months.

Enterprises affected by COVID-19 with severe difficulties in production and operation may apply for deferred payment of social insurance premiums, and the deferred payment period shall not exceed six months.

Effective from February 2020, each province can reduce the companies' contributions for basic medical insurance premiums to 50% for all companies.

- i. The reduced-payment period cannot exceed five months.
- ii. Each province will release its specific policy



Home



Summary



EMEA



AMERICAS



AP

Taxation

Personal Income Tax

Effective from 1 January 2020, an employee's donation in prevention of COVID-19 can be fully deducted when calculating individual income tax (IIT). To enjoy this incentive, the employee can donate materials through public welfare social organisations or governments at or above the county level or directly to hospitals undertaking COVID-19 prevention and control tasks, but the employee can donate cash only through public welfare social organisations or governments at or above the county level.

Effective from 1 January 2020, materials such as medicines, medical supplies and protective supplies provided to employees are not regarded as part of salaries and wages and thus are not subject to IIT.

VAT

Effective from 1 January 2020, a company's donation of goods to support the prevention of COVID-19 is exempted from VAT and VAT surcharges. The incentive only applies if the company donates through public welfare social organisations or governments at or above county level, or to hospitals undertaking COVID-19 prevention and control tasks.

Effective from 1 January 2020, a company's revenue generated from providing public transportation services, livelihood services and express (including transportation, pickup and delivery) services for residents' essential necessities is exempt from VAT and VAT surcharges. Certain conditions apply.

Effective from 1 January 2020, a company's revenue from the transport of goods for epidemic prevention and control of COVID-19 outbreak is exempt from VAT and VAT surcharges. Certain conditions apply.

Effective from 1 January 2020, qualified key enterprises for production of guarantee materials for epidemic prevention and control can apply for a full refund of excess accumulated input VAT amount on a monthly basis. The excess accumulated input VAT amount refers to the increased amount of input VAT at the end of this month compared to the accumulated input VAT at the end of December 2019.

Effective from 1 March to 31 May 2020, for small-scale VAT taxpayers which enjoys the 3% VAT collection rate:

- i. if located in Hubei province, their VAT is exempted;
- ii. if located in other provinces, their VAT collection rate is reduced to 1%.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Excise / Import duties

Effective from 1 January 2020 to 31 March 2020, the donation of imported materials for COVID-19 prevention and control is exempt from import tariffs, import VAT and consumption tax. Imported materials for COVID-19 prevention include reagents, disinfection articles, protective supplies, ambulances, epidemic prevention vehicles, disinfection vehicles and emergency command vehicles.

Effective from 1 January 2020 to 31 March 2020, imported materials that are directly used for the prevention and control of COVID-19 and whose importations are organised by the competent department of health are exempt from tariff.

Other taxes

China encourages local government to reduce or exempt urban land use tax for the purpose of supporting the lessor to reduce rents of individual business. Local policies vary.

Comments

The PRC Ministry of Finance and the State Taxation Administration have released multiple tax incentives to support, and to incentivize companies and individuals to support those who are impacted by the coronavirus outbreak. Listed here are some incentives applicable to the business and employees of an MNC's China subsidiary. Please check with the China office for updates.

Details can be found in Chinese on <http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5145868/content.html>



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

COVID-19 has had no impact on Hong Kong's foreign investment review regime.

Debt

Debt Financing Relief

In response to the impact of the COVID-19 pandemic, the Government has introduced various debt financing relief measures to support businesses, employees and the public.

1. Enhancements to the SME Financing Guarantee Scheme

The SME Financing Guarantee Scheme (the "**Scheme**") was launched in 2011 and is conducted by the HKMC Insurance Limited ("**HKMCI**"), a wholly-owned subsidiary of The Hong Kong Mortgage Corporation Limited. The Scheme aims at helping local small and medium-sized enterprises ("**SMEs**") and non-listed enterprises to obtain credit facilities from participating lenders, with the HKMCI providing guarantee coverage of 50%, 60% or 70%. With the Government's support and as time-limited special concessionary measures, the HKMCI introduced the 80% and 90% guarantee products (the "**80% / 90% Product**") in 2012 and 2019 respectively.

In response to COVID-19, the Government introduced a special 100% guarantee product (the "**100% Product**") on 26 February 2020, and further enhancement measures (the "**Enhancement Measures**") to the 80%, 90% and 100% Products on 8 April 2020.

Under the 100% Product of the Scheme:

- **Who are eligible?** – The borrower must have business operations in Hong Kong for at least three months, and be registered in Hong Kong under the Business Registration Ordinance (Cap. 310). It must have good loan repayment records. Publicly-listed companies, lending institutions and affiliates thereof are not eligible. In addition, the borrower has to prove that it has suffered at least a 30% decline in sales turnover in any month since February 2020 compared with the monthly average of any quarter in 2019.
- **What types of loan are eligible?** – Applicable to loans of a non-revolving nature only. The credit facility must be used to pay wages and rents, or to meet imminent needs in working capital (but not to repay, restructure or repackage existing debts).



Home



Summary



EMEA



AMERICAS



AP

Debt

2. Lowering the regulatory reserve requirement on locally incorporated authorized institutions

To provide authorized institutions ("AIs") with a greater lending headroom to support customers to cope with the COVID-19 outbreak, the Hong Kong Monetary Authority ("HKMA") has decided to lower the regulatory reserve ("RR") requirement on locally incorporated AIs by 50% with immediate effect on 8 April 2020.

3. Fixed-rate Private Residential Mortgage Pilot Scheme

As part of the 2020-2021 Budget, the Financial Secretary announced on 26 February 2020 that the Hong Kong Mortgage Corporation Limited ("HKMC") will introduce a pilot scheme for fixed-rate private residential mortgages for 10 years (2.75% p.a.), 15 years (2.85% p.a.) and 20 years (2.95% p.a.). The maximum limit per loan transaction is HK\$10 million, and the total loan amount available under this pilot scheme is \$1 billion, subject to review based on market response.

At the end of the fixed-rate period, the borrowers may either re-fix the mortgage rate under fixed-rate mortgages or convert the mortgage to a floating rate loan.

Offered through banks, the pilot scheme aims to provide an alternative financing option to homebuyers for mitigating their risks arising from interest rate volatility, thereby enhancing banking stability in the long run. Further announcement will be made on the participating banks and the date of receiving applications upon finalisation.

Debt Moratoria Measures

1. Pre-approved principal payment holiday scheme for corporate customers

The HKMA (in consultation with the Banking Sector SME Lending Coordination Mechanism) has developed a pre-approved principal payment holiday scheme (the "Scheme") in an effort to provide immediate relief to SMEs.

- **Who are eligible?** – Corporate borrowers which have an annual sales turnover of HK\$800 million or less, have no outstanding bank payments which have been overdue for more than 30 days as at 1 May 2020, and are not in the process of ceasing operations or declaring bankruptcy or liquidation. The HKMA also encourages banks to adopt an accommodative stance with respect to corporate borrowers which are not covered by the Scheme, and to assess their requests for financial assistance on a case-by-case basis.
- **How does it work?** – Participating banks will pre-approve deferment of all principal payments of bilateral loans of eligible borrowers falling due between 1 May 2020 and 31 October 2020 for up to 6 months. Applications by borrowers are not required. Participating banks will reach out to borrowers and advise them the terms and financial implications of the principal payment holiday.



Home



Summary



EMEA



AMERICAS



AP

Debt

- *Which banks will participate?* – All AIs in Hong Kong regulated by the HKMA are expected to participate in the Scheme under the same terms.

2. Voluntary measures

The HKMA has also asked banks in Hong Kong to consider introducing voluntary debt moratoria measures to support SMEs in addressing cash-flow problems, as the COVID-19 outbreak continues. These measures include:

- allowing SME customers in the import-export and manufacturing sectors facing cash-flow pressure due to delays in shipments to further extend the repayment period of trade financing facilities; and
- allowing more customers to apply to convert trade financing lines into temporary overdraft facilities so that customers can manage their cash flow more flexibly.

Insolvency



Is state support for distressed business available?

Bankruptcy (In this context used to refer to corporate bankruptcy (more commonly referred to as insolvency and not bankruptcy of individuals) :The Trade and Industry Department operates an SME (small and medium-sized enterprise) Loan Guarantee Scheme that aims to help SMEs secure loans to meet working capital needs for general business uses or to secure loans from participating lending institutions for the purpose of acquiring business installations.

The government guarantees 50% or more of approved loans, subject to a maximum of HKD 12-15 million, depending on the guarantee product.

Scheme of Arrangement: The Trade and Industry Department operates an SME Loan Guarantee Scheme that aims to help SMEs secure loans to meet working capital needs for general business uses or to secure loans from participating lending institutions for the purpose of acquiring business installations.

The government guarantees 50% of approved loans, subject to a maximum of HKD 12-15 million, depending on the guarantee product.

Reorganisations, Restructurings and Work-Outs: The Trade and Industry Department operates an SME Loan Guarantee Scheme that aims to help SMEs secure loans to meet working capital needs for general business uses or to secure loans from participating lending institutions for the purpose of acquiring business installations. The government guarantees 50% of approved loans, subject to a maximum of HKD 12-15 million, depending on the guarantee product.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Bankruptcy (In this context used to refer to corporate bankruptcy (more commonly referred to as insolvency and not bankruptcy of individuals):

There are no formal dispensations or restrictions on creditor actions. However, as part of the 2020-2021 budget, the financial secretary announced on 26 February 2020 that the government will introduce various measures to assist businesses in light of COVID-19 under the "Anti-epidemic Fund."

The government has set up an Anti-epidemic Fund in response to COVID-19, with a budget of HKD 30 billion in the first round and more than HKD 130 billion in the second round.

A. The first round of relief approved by the Legislative Council on 21 February 2020 includes: one-off grants for certain industries/businesses e.g. food license holders for the sum of HKD 80,000 to HKD 200,000 each; other subsidies for licensed travel agents, passenger transport industry, catering and the retail sector

B. The second round of relief approved by the Legislative Council on 18 April 2020 includes:

- i. HKD 81 billion budget for the "Employment Support Scheme" whereby the government will provide a capped wage subsidy to eligible employers to retain employees and avoid redundancies for six months,
- ii. special 100% loan guarantee under the SME Financing Guarantee Scheme ("Special 100% Scheme").

As part of the Anti-epidemic Fund, the government has introduced the Special 100% Scheme, whereby the government will introduce from 20 April 2020 to 19 April 2021 a concessionary low-interest and government-guaranteed loan capped at HKD 4 million, which is introduced under the existing SME Financing Guarantee Scheme. The Special 100% Scheme is available to SMEs with fewer than 100 persons (manufacturing) or fewer than 50 persons (non-manufacturing).

Under the Special 100% Scheme, the participating institution (i.e., bank) will be responsible for vetting eligibility, and the loans will be transferred to Hong Kong Mortgage Corporate Limited (under the HK government).

There will be a "principal moratorium" of six months, during which only interest payments have to be made, and this can be extended from six months to one year by application to the relevant participating institution.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



- iii. measures to reduce salaries taxes subject to a cap of HKD 20,000 per person, and "deferment of salaries tax, personal assessment and profit tax" falling due from April to June 2020 for three months.
- iv. capped fee waivers of government rates for non-domestic parties, rentals and certain Companies' Registry-related fees.
- v. grants and one-off subsidies for an extended list of industries and businesses, e.g., aviation sector, places of entertainment and amusement.

Scheme of Arrangement:

There are no formal dispensations or restrictions on creditor actions. However, as part of the 2020-2021 budget, the financial secretary announced on 26 February 2020 that the government will introduce various measures to assist businesses in light of COVID-19 under the "Anti-epidemic Fund."

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Home



Summary



EMEA



AMERICAS



AP

Insolvency



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- iii. measures to reduce salaries taxes subject to a cap of HKD 20,000 per person, and "deferment of salaries tax, personal assessment and profit tax" falling due from April to June 2020 for three months.
- iv. capped fee waivers of government rates for non-domestic parties, rentals and certain Companies' Registry-related fees.
- v. grants and one-off subsidies for an extended list of industries and businesses, e.g., aviation sector, places of entertainment and amusement.

Reorganisations, Restructurings and Work-Outs :

There are no formal dispensations or restrictions on creditor actions. However, as part of the 2020-2021 budget, the financial secretary announced on 26 February 2020 that the government will introduce various measures to assist businesses in light of COVID-19 under the "Anti-epidemic Fund."

The government has set up an Anti-epidemic Fund in response to COVID-19, with a budget of HKD 30 billion in the first round and more than HKD 130 billion in the second round.

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- i. HKD 81 billion budget for the "Employment Support Scheme" whereby the government will provide a capped wage subsidy to eligible employers to retain employees and avoid redundancies for six months,
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Home



Summary



EMEA



AMERICAS



AP

Insolvency



As part of the Anti-epidemic Fund, the government has introduced the Special 100% Scheme, whereby the government will introduce from 20 April 2020 to 19 April 2021 a concessionary low-interest and government-guaranteed loan capped at HKD 4 million, which is introduced under the SME Financing Guarantee Scheme (an existing scheme where the government provides varying degrees of guarantees to SMEs to secure loans from participating lending institutions for the purpose of acquiring business installations and equipment or meeting working capital needs of general business uses). SMEs are small and medium enterprises with fewer than 100 persons (manufacturing) or fewer than 50 persons (non-manufacturing).

Under the Special 100% Scheme, the participating institution (i.e., bank) will be responsible for vetting eligibility, and the loans will be transferred to Hong Kong Mortgage Corporate Limited (under the HK government).

There will be a "principal moratorium" of six months during which only interest payments have to be made, and this can be extended from six months to one year by application to the relevant participating institution.

- iii. measures to reduce salaries taxes subject to a cap of HKD 20,000 per person, and "deferment of salaries tax, personal assessment and profit tax" falling due from April to June 2020 for three months.
- iv. capped fee waivers of government rates for non-domestic parties, rentals and certain Companies' Registry-related fees.
- v. grants and one-off subsidies for an extended list of industries and businesses, e.g., aviation sector, places of entertainment and amusement.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Bankruptcy (In this context used to refer to corporate bankruptcy (more commonly referred to as insolvency and not bankruptcy of individuals) :See above discussion on the CRP Bill to be introduced in 2021 to 2022.

Scheme of Arrangement: See above discussion on the CRP Bill to be introduced in 2021 to 2022.

Reorganisations, Restructurings and Work-Outs: See above discussion on the CRP Bill to be introduced in 2021 to 2022.



Home



Summary



EMEA



AMERICAS



AP

Equity

No (semi-) equity measures have been announced.

Taxation

Corporate Income Tax

A reduction of 2019/20 profits tax payable by 100% (capped at HKD 20,000) is proposed in the 2020-21 Budget.

The Inland Revenue Department ("IRD") will issue 2019/20 profits tax returns to active companies on 4 May (around a month later than usual). Profits tax returns in unrepresented cases are due for filing within one month of issue. Companies that are represented will get extensions under the IRD's block extension scheme. Special extensions are available this year under the block extension scheme for "N-code" companies (i.e., with accounting year end dates fall within 1 April to 30 November). For N-code companies represented by tax representatives, filings are due by 30 June.

Social Security/ Employment / Wage Taxes / Personal Income Tax

One-off reductions of salaries tax and tax under personal assessment for the year of assessment 2019/20 by 100% (capped at HKD 20,000 per case). The proposed reductions will be reflected in taxpayers' final tax payable for the year of assessment 2019/20. The proposed tax reduction is not applicable to property tax. Individuals with rental income, if eligible for personal assessment, may be able to enjoy such reduction under personal assessment.

The IRD will issue 2019/20 individual tax returns on 1 June (around a month later than usual). Taxpayers are required to file by 30 June. Taxpayers who elect for electronic filing via eTAX receive an automatic one month extension.

VAT

N/A

Excise / Import duties

N/A



Home



Summary



EMEA



AMERICAS



AP

Taxation

Other Taxes

- Extension of deadline to 1 June 2020 to provide the notification through Hong Kong's country-by-country reporting portal for taxpayers whose relevant accounting period ended between 31 December 2019 and 29 February 2020. Deadlines for tax payments, lodgment of objections and holdover applications, and submission of tax returns and information that fall between 23 March and 2 May are automatically extended to 4 May.
- Automatic extension of deadlines by 3 months for payment of Salaries Tax, tax under Personal Assessment ("PA") and Profits Tax for the 2018/19 assessment year that will be falling due in April to June 2020. No application by taxpayers is required for the relief. For taxpayers who have promptly settled the first instalment of their respective demand notes under Salaries Tax, PA and Profits Tax for the 2018/19 assessment year, the deadline for tax payment for the second instalment will be automatically extended for 3 months from the due date of the second instalment as specified on the demand note. If the extended deadline falls on a Saturday, Sunday or public holiday, the deadline will be the next working day. The above relief measure is not applicable to taxpayers who have to settle their tax liabilities before departing Hong Kong and taxpayers paying Property Tax.

Comments

N/A



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

No specific measures have been introduced in response to COVID-19.

Insolvency

Is state support for distressed business available?

Bankruptcy: The government recently issued Government Regulation in Lieu of Law No. 1 of 2020 on Policies on State Finance and Financial System Stability for the Mitigation of the Coronavirus Disease 2019 (COVID-19) Pandemic and/or for the Purpose of Handling the Threats that are Potentially Harmful to the National Economy and/or Financial System Stability ("**COVID-19 Mitigation Regulation**"), which gives the government the authority to implement national economy recovery programs. The recovery programs under the COVID-19 Mitigation Regulation may include support to distressed businesses. However, the programs will be further elaborated on in an implementing regulation. It remains to be seen how this will be implemented until the implementing regulation is issued.

The Coordinating Ministry for Economic Affairs recently announced that the government will provide support to micro, small and medium enterprises affected by the COVID-19 outbreak by, among others things, waiving the interest and providing a grace period for the payment of the principal of certain working capital loans for a maximum period of six months. Company reorganization process: The government recently issued the COVID-19 Mitigation Regulation, which gives the government the authority to implement national economy recovery programs. The recovery programs under the COVID-19 Mitigation Regulation may include support to distressed businesses.

However, the programs will be further elaborated on in an implementing regulation. It remains to be seen how this will be implemented until the implementing regulation is issued.

The Coordinating Ministry for Economic Affairs recently announced that the government will provide support to micro, small and medium enterprises affected by the COVID-19 outbreak by, among others things, waiving the interest and providing a grace period for the payment of the principal of certain working capital loans for a maximum period of six months.



Insolvency

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Other than the above, we are not aware of any dispensations or amendments (such as restrictions on creditor actions) in light of the COVID-19 outbreak.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

We are not aware of any reform of the insolvency regime.

Taxation

Corporate Income Tax

Corporate Income Tax rate for corporate taxpayers is reduced, as follows:

- a. 22% for fiscal years 2020 and 2021
- b. 20% starting from fiscal year 2022

There is an additional 3% Corporate Income Tax rate reduction for limited liability companies that trade at least 40% of their paid-up capital in the Indonesian stock exchange, and meets certain criteria that will be stipulated under a Government Regulation.

Taxpayers in certain industries under 440 business classifications, certain taxpayers obtaining Ease of Imports for Export Purposes (**Kemudahan Impor Tujuan Ekspor/"KITE"**), and certain taxpayers obtaining Ease of Imports for Export Purposes for Small and Medium Entrepreneurs (**Kemudahan Impor Tujuan Ekspor - Industri Kecil dan Menengah/"KITE IKM"**) will be exempted from Income Tax Article 22 on import of goods. The incentive will be provided for six months, from April to September this year. The purpose of this incentive is to help these industries to maintain their imports.

In addition, import and purchase of certain goods required in relation to COVID-19 countermeasures by a government institution, a hospital or other parties is exempted from Income Tax Article 22. A third-party seller that sells certain goods required for COVID-19 countermeasures is also exempted from the obligation to withhold Income Tax Article 22. This exemption is applicable from April to September this year.

The goods that can be exempted from Income Tax Article 22 are medicines, vaccines, laboratory equipment, detection equipment, self-protection equipment, patient-care equipment and other supporting equipment required for COVID-19 countermeasures.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Income received from providing technical services, management services, consultancy services and other services is exempted from Income Tax Article 23. This is applicable for services provided to government institution, hospital or other parties in relation to COVID-19 countermeasures.

Taxpayers in certain industries under 102 business classifications, certain taxpayers obtaining KITE, and certain taxpayers obtaining KITE IKM will receive a reduction of Income Tax Article 25 of 30% for six months, from April to September this year. It is hoped that the incentive will help these industries as to increase exports.

Social Security / Employment / Wage Taxes / Personal Income Tax

The government will bear 100% of Income Tax Article 21 for employees' income of up to IDR 200 million for employees in certain manufacturing industries under 440 business classifications (including certain taxpayers obtaining KITE, and certain taxpayers obtaining KITE IKM) and obtain a tax ID number. The incentive will be provided for six months, from April to September this year. It is hoped that the incentive can increase income to maintain the purchasing power of employees in the manufacturing industry. An Indonesian taxpayer that receives payment from a government institution, a hospital or other parties in relation to services provided in relation to COVID-19 countermeasures is exempted from Income Tax Article 21 from April to September this year.

VAT

A facility will be provided for taxpayers in certain industries under 102 business classifications, certain taxpayers obtaining KITE, and certain taxpayers obtaining KITE IKM, and will be in the form of preliminary refunds. The facility will be provided for six months, from April to September this year. For exporters, there is no limit for the amount of VAT refund. For non-exporters, the limit will be IDR 5 billion. VAT facility is provided for government institutions, hospitals or other parties that imports or purchase taxable goods, use taxable services or import taxable services, in relation to COVID-19 from April to September this year. The goods that receive the VAT facility are medicines, vaccines, laboratory equipment, detection equipment, self-protection equipment, patient-care equipment and other supporting equipment required for COVID-19 countermeasures. The services that receive the VAT facility are construction services, consultation services, technical services, management services, rental services and other services required for COVID-19 countermeasures.

Excise / Import duties

The government grants an authority to Minister of Finance to amend lists of goods that are exempted from or given reduction of Import Duty based on their usage purposes.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Other taxes

Temporary waiver of hotel and restaurant consumption taxes in certain locations.

Digital Services Tax

The government has introduced the tax treatments for the digital economy business. In general, transactions conducted through an electronic system will be subject to the following taxes:

VAT

Delivery of taxable intangible goods and taxable services from outside Indonesia within Indonesia is subject to VAT. The Minister of Finance can appoint the parties that are required to collect, pay and report the VAT, which can be foreign sellers, foreign service providers, foreign Providers of Electronic Systems used for Trading Activities ("PPMSE") or Indonesian PPMSE. To fulfil the VAT obligations, the appointed party can appoint a representative in Indonesia.

Income Tax or Electronic Transaction Tax

A foreign seller, a foreign service provider or a foreign PPMSE that has a significant economic presence in Indonesia may be deemed as a permanent establishment, and will be required to pay Income Tax. The criteria of having a significant economic presence will be stipulated under a Minister of Finance regulation.

If under an applicable tax treaty, the foreign seller, the foreign service provider or the foreign PPMSE that has a significant economic presence is not considered as a permanent establishment, Electronic Transaction Tax will be imposed on sales of goods or provision of services through electronic systems to buyers or service recipients located in Indonesia, whether done directly or through a foreign PPMSE.

Comments

Please contact us to discuss further the new fiscal facilities provided by the government, and to obtain more updates.



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

On 1 May, the Japanese Government published a draft notification including certain medical sectors as subjects to screening and prior notification in the Foreign Exchange and Foreign Trade Act. The medical sectors include manufacture of vaccines, medicine and advanced medical equipment. The addition will likely be reflected as amendment to the notification regarding the amended Foreign Exchange and Foreign Trade Act in the summer of 2020.



To read more about this topic, please see this alert: [Strengthened restrictions under new foreign direct investment rules](#)

Debt

On 20 April 2020, the Cabinet of Japan announced an amended economic stimulus package of JPY 117.1 trillion (approximately US \$1.1 trillion), which expands the size of the initial package of JPY 108 trillion (approximately US \$989 billion) announced on 7 April 2020. The relevant stimulus package was submitted to the National Diet on the 27th and was successfully approved on 30 April. The package includes various policies aimed to cushion the economy from impacts of the COVID-19 pandemic, such as (i) expanded loan and loan guarantee programs that would make interest rate-subsidized (partial forgiveness of interests), no-collateral loans available to affected micro, small or medium-sized business operators and (ii) financial subsidies of up to JPY 2 million for corporations and JPY 1 million for sole proprietors. The application process began on 1 May, and eligible corporations or sole proprietors are able to fill out and submit the application form through the website (<https://www.jizokuka-kyufu.jp/>; only available in Japanese).

For more detailed explanation of the stimulus package and policies thereof, please refer to the links below (available only in Japanese).

https://www5.cao.go.jp/keizai1/keizaitaisaku/2020/20200420_taisaku.pdf

https://www.meti.go.jp/main/yosan/yosan_fy2020/hosei/pdf/hosei_yosan_pr.pdf

Apart from the proposed stimulus, some other COVID-specific measures are already in place, including:

- a. The COVID-19 Special Loan Program (the "COVID-19 Special Loan Program"), which is available for OPEX and CAPEX funding to micro, small or medium-sized business operators.

Debt

- b. Crisis Support Loans, under which the deferral of principal payments for the first five years is provided by The Development Bank of Japan (DBJ) and other financial institutions, are available to mid and large-sized companies. To be eligible for the loan, companies must have suffered (i) at least a 5 percent decrease in sales over the most recent one month period when compared with the same period of the previous year or the year before last, or (ii) some other similar situation.

The FSA has issued requests that financial institutions increase efforts to provide financing support for companies experiencing sudden declines in sales as a result of COVID-19. Financial institutions have been providing support in response to and in line with the requests.

There is no mandatory obligation for companies or their directors to file for insolvency proceedings except for directors of special legal entities. There has not been any dispensation from or amendment of insolvency laws.

Insolvency



Is state support for distressed business available?

Yes, the government and municipalities provide various subsidies and loans for businesses facing financial difficulties due to COVID-19.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

No, there are no dispensations or amendments in light of COVID-19 from a perspective of insolvency law.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

No.

Equity

No (semi-) equity support measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate Income Tax

1. Extension of tax filing / tax payment deadlines

Extension of corporate income tax filing / tax payment deadlines may be granted for businesses impacted by COVID-19. Generally, applications to the National Tax Agency will be considered on a case-by-case basis. Based on the announcement from the National Tax Agency on 8 April 2020, an extension of corporate tax return filing / tax payment deadlines would be available by submitting a tax return, within two months after the event cited as the reason for extension ceases, by including prescribed words indicating that the delay in tax filing is due to COVID-19.

Events that could be treated as reasons for the extension include, for example, (i) inability to sustain the company's business operations ' (ii) the need to cut back on the company's business activities; and (iii) closing of the accounting book takes time, making it difficult for the company to meet filing deadlines, for the following reasons:

- a director or an employee of the company and/or a business contact remains indoors due to being unwell
- a director or an employee of the company and/or a business contact lives in an area where the local government requires work from home during weekdays
- a director or an employee of the company and/or a business contact works from home according to the company's decision to help prevent epidemic
- a director or an employee of the company and/or a business contact remains indoors in order to avoid the epidemic.

Extension of tax payment deadlines for the period from 1 February 2020 to 31 January 2021 without any collateral or interest tax is allowed if the company's revenue drops sharply (i.e., 20% compared to the previous year) and if the tax liability is considered difficult to pay at the time. To enjoy the extension, the taxpayer must file the application by 30 June 2020 or by the original due date, whichever is later.



Home



Summary



EMEA



AMERICAS



AP

Taxation

2. Loss carryback

Under the current rule, the loss carryback for one year can be availed only by an SME (a company (i) whose paid in capital is JPY 100 million or less, and (ii) which is not wholly controlled by a company whose paid-in capital is JPY 500 million or more). The scope will be expanded to include a company (i) whose paid-in capital is JPY 1 billion or less, and (ii) which is not wholly controlled by a company whose paid-in capital is over JPY 1 billion.

3. Tax credit for SMEs with regard to purchase of assets used for telework

For a company whose paid in capital is JPY 100 million or less, and who has obtained an approval from government for the investment plan for enhancing its business in advance, tax credit (7% or 10%) or instance depreciation with regard to expenditure of certain assets (e.g., used for telework) will be available.

Social Security/ Employment / Wage Taxes / Personal Income Tax

1. Social Contributions

According to the relevant laws, employers may apply for an extension of the social insurance premium payment deadline for up to two months if there is an inevitable reason.

2. Withholding tax

Extension for withholding tax payment deadlines may be granted to businesses impacted by COVID-19. Generally, applications to the NTA will be considered on a case-by-case basis. Based on the NTA's announcement on 8 April 2020 (as amended by NTA's announcement on 30 April 2020), an extension of withholding tax payment would be available by tax payment, within two months after the event cited as the reason for extension ceases, by including prescribed words on the tax payment slip to indicate that the delay in tax filing is due to COVID-19. Please refer to "Corporate Income Tax" for the events that could be cited as reasons for the extension.

Extension of tax payment deadlines for the period from 1 February 2020 to 31 January 2021 without collateral or interest tax is allowed if the company's revenue drops sharply (i.e., 20% compared to the previous year) and the tax liability is considered difficult to pay at the time. To enjoy the extension, the taxpayer must file the application by 30 June 2020 or by the original due date, whichever is later.



Home



Summary



EMEA



AMERICAS



AP

Taxation

VAT

1. Extension of tax filing / tax payment deadlines (for individuals)

Japanese Consumption Tax ("JCT") filing and payment deadlines (for individuals) have been extended to 16 April 2020. For individuals who are affected by COVID-19 and cannot meet the filing deadlines due to certain reasons, e.g., remaining indoors due to feeling unwell, filing and payment deadlines of the returns are further extended until they are able to file the return.

2. Extension of tax filing / tax payment deadlines (for enterprises)

Extension of JCT filing / payment deadlines may be granted to businesses impacted by COVID-19. Generally, applications to the National Tax Agency will be considered on a case-by-case basis. Based on the National Tax Agency's announcement on 8 April 2020, the JCT filing / payment may be extended by submitting a tax return, within two months after the event cited as the reason for extension ceases, by including prescribed words indicating that the delay in tax filing is due to COVID-19. Please refer to "CIT/EIT" above for the events that could be cited as reasons for the extension.

Tax payment deadlines for the period from 1 February 2020 to 31 January 2021 may be extended without collateral or interest tax if the company's revenue drops sharply (i.e., 20% compared to the previous year) and the tax liability is considered difficult to pay at the time. To enjoy the extension, the taxpayer must file the application within two months after the relevant laws are enforced or by the original due date, whichever is later (Note 1).

3. Voluntary consumption taxpayer

Generally, the taxpayer cannot become a voluntary consumption taxpayer unless it submits a tax report expressing its intent to become a voluntary consumption taxpayer before the end of the fiscal year in which the taxpayer wants to become a voluntary taxpayer. Permission of late filing the tax report to become a voluntary consumption taxpayer will be available for enterprises that experience a large drop in revenue (i.e., 50% compared to sales for the same month in the previous year). Once the tax report to become a voluntary consumption taxpayer is filed, the consumption taxpayer status cannot be terminated for two years. However, under the proposal, the consumption taxpayer status can be terminated within the fiscal year in which the tax report is filed.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Excise / Import duties

Custom duty and Import VAT on an importation of aid supply for COVID-19 which is donated would be exempted.

Other Taxes

1. Extension of individual tax and gift tax filing / tax payment deadlines (for individuals)

Filing and payment deadlines for individual tax and gift tax have been extended to 16 April 2020. For individuals who are affected by COVID-19 and cannot meet the filing deadlines due to certain reasons, e.g., remaining indoors due to feeling unwell, filing and payment deadlines for the returns are further extended until they are able to file the return.

2. Exemption from stamp duty

The special loan agreement between banks, etc. and enterprises whose businesses suffer damages due to the COVID-19 situation will not be subject to the stamp duty.

3. Exemption or 50% exemption from fixed assets taxation

A 50% exemption from fixed assets taxation for 2021 is available to enterprises with a stated capital of JPY 100 million or less that have no more than 1,000 employees for three months in the period from February 2020 to October 2020 and whose sales decreased by 30% or more, but more than 50%, compared to the sales for the same three-month period in the previous year. If the company's sales decreased by 50% or more, exemption from the fixed assets taxation for 2021 is also available. To enjoy the exemption, the taxpayer must obtain permission from the Support Agency for Business Innovation with METI and file the fixed assets tax return by 31 January 2021.

Comments

In addition to the tax measures listed here, the Japanese government has introduced a number of economic measures in response to the COVID-19 pandemic. Please contact us to obtain updates.



Foreign Investment Restrictions

No specific measures have been introduced in response to COVID-19.

Insolvency

Is state support for distressed business available?

Yes, the Malaysian government has announced various stimulus packages in an effort to support businesses affected by the COVID-19 pandemic. Briefly, the key measures available for businesses are as follows:

- a) **Restructuring and rescheduling of loans:** financial institutions will offer a deferment/moratorium of loan/financing repayments to individuals and small medium enterprises for a period of six months, with effect from 1 April 2020. Corporate borrowers may approach their financiers to request a similar deferment.
- b) **Bank facilities for small and medium enterprises (SMEs):** SMEs (defined as (i) manufacturing firms with a sales turnover not exceeding MYR 50 million or not exceeding 200 full-time employees; or (ii) service or other sector firms with sales turnover not exceeding MYR 20 million or not exceeding 75 full-time employees) may apply to various participating banks for low/zero interest loans (e.g., Special Relief Facility, Agrofood Facility and Automation and Digitalization Facility).
- c) **MYR 3,000 grant to micro enterprises:** micro enterprises with a sales turnover of less than MYR 300,000 or less than five full-time employees registered with the Inland Revenue Board may apply for a grant of MYR 3,000.
- d) **Tax-deduction for offering rent-free periods:** landlords who offer SMEs a reduction of at least 30% of the rental fee on the SME's business premises will be eligible for an income tax deduction of an equivalent amount from April to June 2020.
- e) **Wage Subsidy Program:** Companies hiring employees earning MYR 4,000 and below may apply to the Malaysian Social Security Organization (PERKESO) for the Wage Subsidy Program, whereby the government will contribute MYR 600 - MYR 1,200 per employee, depending on the total number of employees of the company for three months, subject to the company meeting various eligibility criteria.



Home



Summary



EMEA



AMERICAS



AP

Insolvency

- f) **Utilities discount:** there is a 15% discount on sectors adversely affected by COVID-19 (e.g., hotel operators, travel and tour agencies, shopping malls, convention centers, offices of domestic flight companies). For all other sectors, there is a 2% discount from 1 April to 30 September 2020. In addition, the government has proposed a tiered rebate on electricity bills for all domestic users in Peninsular Malaysia up to a maximum consumption rate of 600 kWh.
- g) **Employer Advisory Services by the Employees' Provident Fund:** the Employees' Provident Fund board will be providing Employer Advisory Services from 15 April 2020 to provide customized advisory support services for employers, specifically with regards to the employers' portion of EPF contributions during the current economic downturn.
- h) **Exemption from Human Resource Development Fund (HRDF):** companies in the manufacturing, services, mining and quarrying sector with 10 or more employees are exempt from paying levy payments to the HRDF Fund for six months starting from April 2020. The levy on foreign workers is reduced by 25% for all companies with work permits that will expire in the period from 1 April to 31 December 2020.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Scheme of arrangement (SoA): None as at the date of this questionnaire.

Winding-up: None as at the date of this questionnaire, but refer to the response below.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Scheme of arrangement (SoA): None as at the date of this questionnaire.

Winding-up: Yes. The Malaysian government has proposed to increase the threshold of indebtedness for companies "unable to pay its debts" from MYR 10,000 to MYR 50,000 until 31 December 2020 to reduce winding-up petitions against companies. The period for responding to notices of demand will be extended from 21 days to six months.



Taxation

Corporate Income Tax

Tax deductions may be claimed for expenses incurred by companies to provide employees with disposable personal protective equipment ("**PPE**") such as face masks. Expenses for non-disposable PPE products may be claimed as capital allowances. Qualifying hotel and tour operating businesses may claim further tax deductions for expenses incurred in training their employees under a training programme approved by the Ministry of Tourism, Arts and Culture.

Qualifying capital expenditures on machinery and equipment including information and communication technology equipment are given an accelerated capital allowance, which can be claimed for expenses incurred during the period from 1 March 2020 to 31 December 2020.

Tax deduction for qualifying expenditures up to MYR 300,000 incurred in renovating and refurbishing business premises during the period from 1 March 2020 to 31 December 2020.

International shipping companies that establish and operate businesses in Malaysia may claim double deductions on pre-commencement expenditure for setting up regional offices in Malaysia. The incentive is applicable for applications received not later than 31 December 2021.

Banking institution's income from interest or profit from loans or financing related to a 6-month moratorium on loans (i.e., to assist small and medium enterprises ("**SMEs**") and individuals) will only be taxable when the income is received after the moratorium period.

Owners of private properties that reduce or waive rental payments for affected SME tenants are given a tax deduction equivalent to the amount of rental reduction for April, May, and June 2020, provided that the rental payments are reduced by at least 30% from the original rental rate.

SMEs may defer their income tax instalment payments for a period of three months beginning from 1 April 2020. Businesses in the tourism industry (e.g., travel agencies, hoteliers and airlines) may defer their monthly tax instalments for 6 months from 1 April 2020 to 30 September 2020. Affected businesses that are not in the tourism sector may revise the amount of income tax imposed in the third, sixth and ninth instalments during the basic accounting period.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Further, the Inland Revenue Board ("IRB") deadlines for the following have been extended in certain circumstances:

- certain returns, employer-employee filings, and other tax filings;
- certain deadlines applicable to Labuan entities;
- certain country-by-country reporting filings; and
- tax audits — responding to IRB's queries.

Social Security/ Employment / Wage Taxes / Personal Income Tax

During the period from 1 April to 31 December 2020, the minimum employee contribution to the Employees Provident Fund will be reduced from 11% to 7%.

Tax deductions for donations to COVID-19 Fund (set up by the Ministry of Health and the National Disaster Management, Prime Minister's Department) and approved organisations or institutions.

VAT

Exemptions from service tax on the provision of accommodation and other related services by operators of accommodation premises, applicable to the period from 1 March 2020 until 31 August 2020. Sales tax exemption on face masks (i.e., one ply, two ply, three ply and N95), with effect from 23 March 2020 until the end of the pandemic.

Sales tax exemption on PPE imported for the purpose of donating to the Ministry of Health with effect from 25 March 2020 until the end of the pandemic.

The deadlines for service tax and sales tax filings have been extended.

Excise / Import duties

Port operators will be given import duty and sales tax exemptions on imported or locally purchased of equipment and machinery used directly in port operations from 1 April 2020 to 31 March 2023. Extension of the scope of value added activities that may be carried out in a licensed manufacturing warehouse and free industrial zone.

Import duty exemption on face masks (i.e., one ply, two ply, three ply and N95), with effect from 23 March 2020 until the end of the pandemic.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Import duty exemption on PPE imported for the purpose of donating to the Ministry of Health with effect from 25 March 2020 until the end of the pandemic.

Other taxes

Stamp duty exemption of 100% on loan agreements arising from the restructuring and rescheduling of business loans between borrowers affected by COVID-19 and financial institutions, provided that the original loan agreement has been duly stamped. The exemption is applicable to the period from 1 March 2020 to 31 December 2020.

The deadlines for the submission of certain real property gains tax filings and payments have been extended.

Comments

This content is up to date as at 7 April 2020. The listed measures are subject to certain conditions, and there may be changes from time to time. Please check with us for more details, and to obtain updates on new measures.



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

No measures have been announced in specific response to COVID-19.

Insolvency



Is state support for distressed business available?

Yes, the government has provided a grace period of at least 30 days for amounts due on commercial leases for micro, small and medium enterprises affected by the enhanced community quarantine. The rent falling due during the period of quarantine will be amortized for the next six months following the lifting of the quarantine, without interest, fees or penalties. Further, the government has implemented programs of assistance, such as a Small Business Wage Subsidy Program for affected establishments.

Under the Implementing Rules of the Bayanihan to Heal as One Act, all covered institutions, including lenders and banks, are to implement a 30-day grace period for all loans with principal or interest falling due within the period of enhanced community quarantine, without incurring interest on interest, penalties, fees and other charges. The borrower may pay the accrued interest for the 30-day grace period on a staggered basis over the remaining life of the loan.

The same law provides that the president is authorized to move statutory deadlines for payment of taxes, fees and other charges required by law, and to grant any benefit in order to ease the burden on individuals under the Enhanced Community Quarantine in place by reason of the COVID-19 pandemic. The president may direct all financial institutions to implement a minimum 30-day grace period for payment of all loans, without incurring interests, penalties, fees or other charges. The president may also provide for a minimum 30-day grace period for the payment of residential rents falling due within the period of enhanced community quarantine, without incurring interests, penalties, fees and other charges.

Last, the Department of Labor has launched a COVID-19 Adjustment Measures Program that provides aid to employees of affected establishments.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

As previously mentioned, the president is authorized by law to move statutory deadlines and timelines for the payment of taxes, fees and other charges required by law, and to grant any benefit in order to ease the burden on individuals under the enhanced community quarantine in place by reason of the COVID-19 pandemic. The president may direct all financial institutions to implement a minimum 30-day grace period for payment of all loans, without incurring interests, penalties, fees or other charges. The president may also provide for a minimum 30-day grace period for the payment of residential rents falling due within the period of enhanced community quarantine, without incurring interests, penalties, fees and other charges.

The Implementing Rules of the Bayanihan to Heal as One Act, provide that all covered institutions, including lenders and banks, are to implement a 30-day grace period for all loans with principal or interest falling due within the period of enhanced community quarantine, without incurring interest on interest, penalties, fees and other charges. The borrower may pay the accrued interest for the 30-day grace period on a staggered basis over the remaining life of the loan.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

There is a bill pending in the Lower House in Congress providing for stiffer penalties for the violation of the FRIA. As it stands, the law provides for a penalty of a fine of not more than PHP 1 million and imprisonment for not less than three months and not more than five years. The pending bill proposes that the period of imprisonment be increased to not less than one year and not more than five years. The bill is presently pending with the Lower House's Committee on Banks and Financial Intermediaries.

Equity

On 13 March 2020, the Secretary of the Philippine Department of Finance (DOF) announced the DOF's directive for two government-owned and controlled corporations, the Government Service Insurance System (GSIS) and Social Security System (SSS), to purchase more shares of stock from the stock market after the Philippine Stock Exchange Index (PSEi) experienced its lowest level in eight years in light of investor concerns over the COVID-19 threat.

As a response to this directive, the DOF Secretary announced that GSIS and SSS bought a combined total of PHP 385,089 million worth of stocks on the last trading day of the Philippine Stock Exchange before the implementation of the enhanced community quarantine over the entire island of Luzon on 17 March 2020.

No further (semi-) equity support measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate Income Tax

The Bureau of Internal Revenue (**BIR**) has extended deadlines and has issued guidelines for tax e-filings/filings, and payments of internal revenue taxes. Encouragement to use electronic filing facilities of the BIR for taxpayers not mandated to use the online facilities.

Permission to pay internal revenue taxes at nearest authorized agent banks notwithstanding Revenue District Office (**RDO**) jurisdiction, or at the nearest RDO despite existence of authorized agent banks.

Liberalisation of the grant of incentives for the manufacture or importation of healthcare equipment and supplies.

Full deductibility of COVID-19-related donations (including cash, healthcare equipment and supplies, food and water relief, and the use of real and personal property) in certain circumstances.

Social Security/ Employment / Wage Taxes / Personal Income Tax

N/A

VAT

The BIR has extended deadlines for the filing of VAT declarations and administrative claims for VAT credits and refunds. The 90-day period for processing VAT refund claims is suspended and the counting of the number of processing days shall resume after the Enhanced Community Quarantine (**ECQ**) is lifted. VAT exemption on the importation of healthcare equipment and supplies including personal protective equipment (**PPEs**), laboratory equipment and reagents, consumables, and testing kits.

VAT exemption on the importation of materials needed to make healthcare equipment and supplies.

Permission to pay internal revenue taxes at nearest authorized agent banks notwithstanding Revenue RDO jurisdiction, or at the nearest RDO despite existence of authorized agent banks.

Liberalisation of the grant of incentives for the manufacture or importation of healthcare equipment and supplies.

Issuance of temporary electronic copies of VAT Certificates and VAT Identification Cards to resident foreign missions during the implementation of the ECQ in the Philippines, and mandating business establishments to grant a point-of-sale VAT exemption upon presentation of such certificates and identification cards.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Excise / Import duties

Exemption from excise tax and other fees on the importation of healthcare equipment and supplies including PPEs, laboratory equipment and reagents, consumables, and testing kits. Exemption from excise tax and other fees on the importation of materials needed to make healthcare equipment and supplies.

Exemption from the requirement to obtain Authority to Release Imported Goods for importations of healthcare equipment and supplies deemed as critical or needed to address the current public health emergency.

Liberalisation of the grant of incentives for the manufacture or importation of healthcare equipment and supplies.

Other taxes

The BIR has extended deadlines for capital gains tax, donor's tax, estate tax and other tax filings. Extension of deadline for application for tax amnesty on delinquencies of tax liabilities covering taxable year 2017 and prior years.

- Extension of deadline for filing of Certificate of Residency for Tax Treaty Relief Forms.
- Exemption from donor's tax of donations and gifts to the Government, certain agencies and certain organisations of imported healthcare equipment and supplies, as well as materials needed to make such equipment and supplies.
- Exemption from donor's tax of qualified donations given for the sole and exclusive purpose of combatting COVID-19 during the period of the state of national emergency.
- Stamp duty exemption for certain qualifying loan documents falling due within the period of the ECQ.
- Extension of time for application of new Authority to Print receipts/invoices and extension of use of expired principal and supplementary receipts/invoices.
- Permission to pay internal revenue taxes at nearest authorized agent banks notwithstanding RDO jurisdiction, or at the nearest RDO despite existence of authorized agent banks.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Tax Disputes and Remedies

- The BIR has extended the deadline for the submission and/or filing of certain documents and correspondences in relation to tax audits and disputes.
- Suspension of the running of the statute of limitations for assessment and collection pursuant to the Tax Code.

Comments

It is expected that more tax and economic measures will be introduced. Please contact us to obtain updates.



To read more about this topic, please see this alert:

[Acceptance of payment of internal revenue taxes during the enhanced community quarantine](#)

[BIR further extends due dates for submission of and/or filing of certain documents and returns](#)



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

COVID-19 has had no impact on Singapore's foreign investment review regime.

Insolvency



Is state support for distressed business available?

Winding-Up: Yes. Such support is found in the COVID-19 (Temporary Measures) Act 2020 ("COVID-19 Act"). The provisions in the COVID-19 Act relating to temporary relief for (i) inability to perform contracts and (ii) financially distressed individuals, firms and other businesses came into force on 20 April 2020.

The Monetary Authority of Singapore also announced that banks and finance companies in Singapore have committed to help ease the financial strain on small and medium-sized enterprises (SMEs) arising from the need to make principal repayments on their loans during this period, in view of the temporary cash flow constraints that many may face. SMEs may opt to defer principal payments on their secured term loans up to 31 December 2020, subject to banks' and finance companies' assessment of the quality of the SMEs' security.

SMEs will also be able to extend the tenure of their loans by up to the corresponding principal deferment period, if they wish. This relief will be available to SMEs that continue to pay interest and are in good standing with their banks and finance companies (not more than 90 days past due as of 6 April 2020). Banks and finance companies may also apply for low-cost funding through a new MAS SGD Facility for loans granted under Enterprise Singapore's SME Working Capital Loan scheme and Temporary Bridging Loan Programme. Banks and finance companies can apply for these funds until the end of December 2020, provided they commit to pass on the savings in funding cost to their SME borrowers. This initiative will potentially lower the interest rates charged to eligible SME borrowers.

Judicial Management: Yes. Such support is found in the COVID-19 Act. The provisions in the COVID-19 Act relating to temporary relief for (i) inability to perform contracts and (ii) financially distressed individuals, firms and other businesses came into force on 20 April 2020.

Scheme of Arrangement: Yes. Such support is found in the COVID-19 Act. The provisions in the COVID-19 Act relating to temporary relief for (i) inability to perform contracts and (ii) financially distressed individuals, firms and other businesses came into force on 20 April 2020.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Winding-Up :Stay of winding-up proceedings

For a prescribed period, i.e., six months commencing 20 April 2020, applications for winding-up cannot be made against a contracting counterparty or that counterparty's guarantor. However, the following conditions apply:

- a) the contract must be a type listed in the Schedule to the COVID-19 Act
- b) the contract must have been entered into before 25 March 2020
- c) the obligation must be one that is to be performed on or after 1 February 2020
- d) the inability to perform the obligation must be, to a material extent, caused by a COVID-19 event
- e) the counterparty must serve a notification for relief in accordance with the COVID-19 Act

The contracts listed in the Schedule are:

- a) a performance bond relating to a construction or supply contract
- b) a hire purchase agreement or conditional sales agreement for plant, machinery or fixed assets located in Singapore and used for manufacturing, production or other business purposes, or a commercial vehicle
- c) event contracts
- d) tourism related contracts
- e) construction or supply contracts
- f) a lease or license of non-residential commercial immoveable property
- g) a contract for a loan facility by a bank or finance company licensed under the Singapore Banking Act or the Singapore Finance Companies Act made available to an enterprise and that is secured against commercial or industrial immovable property in Singapore or plant, machinery or fixed asset located in Singapore used for manufacturing, production or other business purposes.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



An enterprise means (1) an entity having annual turnover (or group annual turnover) of less than SGD 100 million, and (2) which is 30% or more directly or indirectly owned by Singapore citizens and residents.

Notwithstanding the above, a contract in relation to which Section 4 of the International Interests in Aircraft Equipment Act (Cap. 144B) applies will not constitute a scheduled contract.

Where the counterparty serves such a notice and the aggrieved party wishes to challenge the availability of the COVID-19 Act's protections to the counterparty, they can apply for an assessor's determination of the matter.

Higher threshold for statutory demands

In addition, during a prescribed period (i.e., six months commencing 20 April 2020), the monetary thresholds of and deadlines to fulfil statutory demands will also be raised. The monetary threshold for a statutory demand against a Singaporean company will be raised from SGD 10,000 to SGD 100,000, and the statutory deadline to fulfil the statutory demand will be extended from three weeks to six months. However, statutory demands served on a Singaporean company prior to the commencement of the relevant provisions in the COVID-19 Act will not be subject to these revisions.

Modified requirements for the offence of insolvent trading

Ordinarily, directors of a near-insolvent company that continues trading may be exposed to civil and criminal liability if there was no reasonable expectation of the company being able to make payment (i.e., the offence of insolvent trading) or if there was an intent to defraud (i.e., the offence of fraudulent trading).

However, the COVID-19 Act provides that the offence of insolvent trading will not be made out if a debt is in the ordinary course of the company's business, during the prescribed period of six months commencing 20 April 2020 and before the appointment of a judicial manager or liquidator of the company.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Judicial Management: Stay of judicial management proceedings

For a prescribed period, i.e., six months commencing 20 April 2020, applications for a judicial management order cannot be made against a contracting counterparty or that counterparty's guarantor. However, the following conditions apply:

- a) the contract must be a type listed in the Schedule to the COVID-19 Act
- b) the contract must have been entered into before 25 March 2020
- c) the obligation must be one that is to be performed on or after 1 February 2020
- d) the inability to perform the obligation must be, to a material extent, caused by a COVID-19 event
- e) the counterparty must serve a notification for relief in accordance with the COVID-19 Act

The contracts listed in the Schedule are:

- a) a performance bond relating to a construction or supply contract
- b) a hire purchase agreement or conditional sales agreement for plant, machinery or fixed assets located in Singapore and used for manufacturing, production or other business purposes, or a commercial vehicle;
- c) event contracts
- d) supply contracts
- e) tourism related contracts
- f) construction or supply contracts
- g) a lease or license of non-residential commercial immoveable property
- h) a contract for a loan facility by a bank or finance company licensed under the Singapore Banking Act or the Singapore Finance Companies Act made available to an enterprise and that is secured against commercial or industrial immovable property in Singapore or plant, machinery or fixed asset located in Singapore used for manufacturing, production or other business purposes.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



An enterprise means (1) an entity having annual turnover (or group annual turnover) of less than SGD 100 million, and (2) which is 30% or more directly or indirectly owned by Singapore citizens and residents.

Notwithstanding the above, a contract in relation to which Section 4 of the International Interests in Aircraft Equipment Act (Cap. 144B) applies will not constitute a scheduled contract.

Where the counterparty serves such a notice and the aggrieved party wishes to challenge the availability of the COVID-19 Act's protections to the counterparty, they can apply for an assessor's determination of the matter.

Scheme of Arrangement: Scheme of arrangement proceedings

For a prescribed period, i.e., six months commencing 20 April 2020, applications to convene a meeting of creditors to be summoned to approve a scheme of arrangement in relation to a contracting counterparty or that counterparty's guarantor cannot be brought.

However, the following conditions apply:

- a) the contract must be a type listed in the Schedule to the COVID-19 Act
- b) the contract must have been entered into before 25 March 2020
- c) the obligation must be one that is to be performed on or after 1 February 2020
- d) the inability to perform the obligation must be, to a material extent, caused by a COVID-19 event
- e) the counterparty must serve a notification for relief in accordance with the COVID-19 Act

The contracts listed in the Schedule are:

- a) a performance bond relating to a construction or supply contract
- b) a hire purchase agreement or conditional sales agreement for plant, machinery or fixed assets located in Singapore and used for manufacturing, production or other business purposes, or a commercial vehicle
- c) event contracts



Home



Summary



EMEA



AMERICAS



AP

Insolvency



- d) tourism related contracts
- e) construction or supply contracts
- f) a lease or license of non-residential commercial immoveable property
- g) a contract for a loan facility by a bank or finance company licensed under the Singapore Banking Act or the Singapore Finance Companies Act (made available to an enterprise and that is secured against commercial or industrial immovable property in Singapore or plant, machinery or fixed asset located in Singapore used for manufacturing, production or other business purposes).

An enterprise means (1) an entity having annual turnover (or group annual turnover) of less than SGD 100 million, and (2) which is 30% or more directly or indirectly owned by Singapore citizens and residents.

Notwithstanding the above, a contract in relation to which Section 4 of the International Interests in Aircraft Equipment Act (Cap. 144B) applies will not constitute a scheduled contract.

Where the counterparty serves such a notice and the aggrieved party wishes to challenge the availability of the COVID-19 Act's protections to the counterparty, they can apply for an assessor's determination of the matter.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Winding-Up: N/A.

Judicial Management: N/A.

Scheme of Arrangement: N/A.

Equity

No (semi-) equity measures have been announced.



To read more about this topic, please see this alert: [Singapore introduces fourth stimulus package to mitigate COVID-19 induced economic shock](#)



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate income tax

Singapore has introduced a number of temporary enhancements to the income tax regime to help local businesses with their cash flow in the short term, as follows:

- taxpayers may carry back current year unabsorbed capital allowances and trade losses for the year of assessment (YA) 2020 to offset against their assessable income for up to three immediate preceding YAs (capped at SGD 100,000), rather than just the immediate preceding YA;
- taxpayers who incur capital expenditure to acquire plant and machinery during the basis period for YA 2021 can exercise an irrevocable option to write off the expenditure incurred over two years, at 75% of the cost incurred in YA 2021 and the remaining 25% in YA 2022;
- taxpayers who incur qualifying expenditure for renovation and refurbishment during the basis period for YA 2021 can exercise an irrevocable option to claim a deduction for such expenses in one YA instead of over three YAs (subject to the existing cap of SGD 300,000 for every relevant period of three consecutive YAs);
- companies are granted a corporate income tax rebate of 25% of tax payable for YA 2020 (capped at SGD 15,000);
- companies that pay corporate income tax by GIRO can automatically enjoy an additional two months of interest-free instalments when they file their estimated chargeable income within three months from their financial year-end; and
- companies with corporate income tax payments due in April, May and June 2020 will be granted an automatic three-month deferment for these payments to July, August and September 2020 respectively, and self-employed persons will have their personal income tax payments due in May, June and July 2020 deferred to August, September and October 2020 respectively.

The Inland Revenue Authority of Singapore (**IRAS**) has also released guidance on the following:

Tax residence status of a company

Where a Singapore tax resident company is not able to hold its board of directors meeting in Singapore due to COVID-19 related travel restrictions, IRAS is prepared to consider the company as a tax resident for YA 2021, provided the company satisfies all the following conditions:

- a. the company is a Singapore tax resident for YA 2020;
- b. the economic circumstances (e.g., principal activities, usual locations in which the company operates) of the company have not changed; and
- c. the directors are obliged to attend board meeting(s) held outside Singapore or participate electronically (via video conference) due to their movement being restricted by COVID-19 related travel restrictions.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Conversely, where a company is not tax resident in Singapore for YA 2020, IRAS will continue to consider the company to be a non-resident for YA 2021, provided it meets all the following conditions:

- a. the company is obliged to hold its board of directors meeting(s) in Singapore due to COVID-19 related travel restrictions; and
- b. the economic circumstances of the company have not changed.

The company should maintain relevant documentation (e.g., meeting minutes or papers stating why the directors were taking part in board meetings from their respective locations) to substantiate its claim.

Permanent establishment

Provided that the following conditions are met, IRAS will not consider the unplanned presence of employees of a foreign company (that is resident in a treaty jurisdiction), who had to remain in Singapore due to COVID-19 related travel restrictions, as resulting in the creation of a permanent establishment in Singapore:

- a. the foreign company does not have a permanent establishment in Singapore for YA 2020;
- b. the economic circumstances of the company have not changed;
- c. the unplanned presence of the employees in Singapore is due to COVID-19 related travel restrictions and their physical presence in Singapore is temporary; and
- d. the activities performed by the employees during the unplanned presence would not have been performed in Singapore if not for the travel restrictions.

The company should maintain the necessary documentation to substantiate its claim that it has no permanent establishment in Singapore.

Social security / Employment / Wage taxes / Personal Income Tax

All employees (other than employees of foreign employers and non-Singapore citizen employees who have sought tax clearance) can apply to defer their income tax payments due in May, June and July 2020. Where the application is approved, income tax payments will resume in August 2020 and the end date for the tax instalment plan (if opted for by the taxpayer) will be extended by three months.

The filing deadline for individual income tax returns for YA 2020 has been extended to 31 May 2020.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Employers seeking tax clearance for their employees in April are given one month's extension.

In addition, subject to conditions, IRAS is prepared to treat individuals who have been exercising employment overseas, but are now working remotely from Singapore due to COVID-19 related travel restrictions, as not exercising employment in Singapore.

VAT

The filing deadline for all GST returns for accounting period ended March 2020 has been extended to 11 May 2020. The payment date has also been extended to 11 May 2020, except for those on GIRO for which the deduction date remains as 15 May 2020.

Excise/import duties

N/A

Other taxes

Property Tax

Non-residential properties will be granted property tax rebate for the period from 1 January 2020 to 31 December 2020:

- The following premises will receive a 100% rebate:
 - Accommodation and function room components of qualifying hotel buildings and serviced apartment buildings;
 - MICE premises of Suntec Singapore Convention and Exhibition Centre, Singapore EXPO and Changi Exhibition Centre;
 - Changi Airport, Singapore Cruise Centre, Marina Bay Cruise Centre Singapore and Tanah Merah Ferry Terminal;
 - Premises that provide accommodation but are not registered hotels (e.g., hostels, boarding houses and hotels that are not a registered hotel);
 - Retail-related premises (e.g., shops, restaurants, amusement centres, cinema, theatre);
 - Premises that provide medical facilities (e.g., medical clinic, hospital, nursing home, hospice, rehabilitation centre or convalescent home);
 - Premises that provide education (e.g., childcare centre, kindergarten, school, driving school);
 - Purpose-built workers' dormitory; and
 - Tourist attractions.



Home



Summary



EMEA



AMERICAS



AP

Taxation

All premises at Marina Bay Sands and Resorts World Sentosa will receive a 60% rebate.

Other non-residential properties (e.g., offices, warehouses, premises used for an industrial purpose or agricultural purpose, petrol stations) will receive a 30% rebate.

Withholding tax

The deadline for all Section 45 withholding tax forms filing and payments due in April 2020 has been extended to 15 May 2020. However, the deduction date remains at 25 April 2020 for those on GIRO and who file by 15 April 2020.

Comments

In addition to the tax measures listed here, the Singapore government has introduced a wide range of economic measures to build long term capabilities, as well as short term reliefs to counter the impact of COVID-19 on individuals and businesses.



To read more about this topic, please see this alert: [Singapore introduces fourth stimulus package to mitigate COVID-19 induced economic shock](#)



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

COVID-19 has not had an impact on foreign investment law. However, to facilitate the foreign investment cases, the competent authority, Investment Commission, has issued a notice on 9 April 2020, allowing the POA that must be notarized, apostilled or legalized overseas for foreign investment applications can be submitted within 6 months of the approval as long as a scanned copy can be filed for review.

Debt

The government announced on 25 February 2020 the Special Act for Prevention, Relief, and Revitalization Measures for Severe Pneumonia with Novel Pathogens (the Act), authorizing relevant industry authorities to provide various support measures such as debt financing, subsidies to businesses/employees, etc. The Act was amended on 21 April 2020 and the maximum amount of funding required for the Act was increased from TWD 60 billion to TWD 210 billion (approximately USD 2 billion to USD 7 billion). The responsible authorities and relevant banks have established standards and application forms to offer urgent and timely support to affected businesses and individuals.

Insolvency



Is state support for distressed business available?

Yes. The Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens was passed on 25 February 2020.

Effective retrospectively from 15 January 2020 and running through 30 June 2021, the act provides for compensation, subsidies and tax breaks for businesses, individuals, medical institutions, schools and other organizations affected by COVID-19. It also offers rewards for those who make significant contributions to outbreak prevention and outlines punishments for violating disease-related regulations.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Yes. Pursuant to the Ministry of Economic Affairs Relief and Incentive Program for Businesses and Enterprises with Operational Difficulties due to COVID-19 ("Incentive Program"), enterprises that meet the conditions and qualifications outlined below ("Affected Enterprises") may apply for: (i) an extension of the repayment of principal of loans borrowed before such Incentive Program was announced; and (ii) loans to pay wages and rents for factory and business premises. These loans will be guaranteed by the Small and Medium Enterprise Credit Guarantee Fund of Taiwan.

1. Domestic profit-seeking enterprises that have completed company registration, business registration, limited partnership registration or tax registration, or small-sized businesses exempted from registration under the Business Registration Act.
2. Commencing January 2020, their average business turnover in any two consecutive months is 15% or more, less than the average business turnover for the six months before December 2019 or for the same period of the previous year, proven to be true by their competent authorities, agency/organization appointed or contracted by competent authorities or a financial institution.

The Affected Enterprises that borrow loans to pay wages and rents for factory and business premises pursuant to the Incentive Program cannot reduce employees' salaries or lay off employees.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

No.

Equity

No (semi-) equity support measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate Income Tax

In certain circumstances, taxpayers affected by COVID-19 may apply for deferral of tax payments, or to pay in instalments. Extension of certain filing and payment deadlines for affected taxpayers in certain circumstances (e.g., if the representative person is self-isolating or under quarantine).

Double deductions for salary expenses incurred in certain circumstances.

Social Security/Employment/Wage Taxes

In certain circumstances, taxpayers affected by COVID-19 may apply for deferral of tax payments, or to pay in instalments. Extension of filing and payment deadlines for affected taxpayers in certain circumstances (e.g., if the taxpayer is self-isolating or under quarantine)

VAT

N/A

Excise / Import duties

Customs exemptions on certain medical supplies such as face masks.

Other Taxes

Temporary reliefs for house taxes and vehicle license taxes.

Comments

It is expected that more tax and economic measures will be introduced. Please contact us to obtain updates.



Foreign Investment Restrictions

No specific measures relating to foreign investment restriction have been announced in response to COVID-19 in Thailand. However, there are some general measures which might affect an investment in general. For example, the authority in some area temporarily stop providing some land-related registration services except for some necessary transactions which have specific conditions or time limit.

Insolvency

Is state support for distressed business available?

Bankruptcy: No

Liquidation: No

Business reorganization: No

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

Bankruptcy: No

Liquidation: No

Business reorganization: No

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

Bankruptcy: No

Liquidation: No

Business reorganization: No



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate Income Tax

1. Reduction of withholding tax rate

The Ministerial Regulation No. 361 (B.E. 2563) was published in the Royal Gazette on 30 March 2020 to reduce the withholding tax rate for the following payments made to companies or juristic partnerships (not including foundations and associations):

- a. service fees under sections 40(2), 40(6), and 40(7) of the Revenue Code.
- b. royalties for goodwill, copyrights, or other rights under section 40(3) of the Revenue Code.
- c. consideration for hire of work, reward, discount, sales promotion under section 40(8) of the Revenue Code (excluding hotel services, restaurant services, and life insurance premium).

The withholding tax rate will be reduced as follows:

1. Withholding tax shall be reduced from 3 percent to 1.5 percent for the payment made from 1 April 2020 to 30 September 2020.
2. Withholding tax shall be reduced from 3 percent to 2 percent for the payment made from 1 October 2020 to 31 December 2021, only for the withholding tax remitted to the Revenue Department through e-withholding tax system.

2. Extension of deadlines for CIT filing and payment

The Ministry of Finance has issued the Ministerial Notification re: the extension of deadlines for the submission of CIT return forms and the payment of CIT No. 2, dated 31 March 2020. Details of the Ministerial Notification are as follows:

1. the submission of CIT return form (Phor. Ngor. Dor. 50) (including supporting documents such as audited financial statements) and the payment of CIT that will be due from April 2020 to August 2020 (depending on the accounting period) will be extended until 31 August 2020.



Home



Summary



EMEA



AMERICAS



AP

Taxation

2. the submission of half-year CIT return form (Phor. Ngor. Dor. 51) and the payment of CIT that will be due from April 2020 to September 2020 (depending on the accounting period) will be extended until 30 September 2020. The above extensions are granted to the companies that are not listed on the Stock Exchange of Thailand.

3. Special expense deduction for donating to combat COVID-19 pandemic

Additional expense deduction of not exceeding 2 percent of net profit is provided for corporate taxpayer for donating money or asset through the e-donation platform to the Office of the Prime Minister's bank account during 5 March 2020 to 5 March 2021.

Social Security/Employment/Wage Taxes

1. Reduction of withholding tax rate

The Ministerial Regulation No. 361 (B.E. 2563) was published in the Royal Gazette on 30 March 2020 to reduce the withholding tax rate for the following payments made to persons subject to PIT:

- a. service fees under sections 40(6), and 40(7) of the Revenue Code.
- b. consideration for hire of work, reward, discount, sales promotion under section 40(8) of the Revenue Code (excluding hotel services, restaurant services, and life insurance premium).

The withholding tax rate will be reduced as follows:

1. Withholding tax shall be reduced from 3 percent to 1.5 percent for the payment made from 1 April 2020 to 30 September 2020.
2. Withholding tax shall be reduced from 3 percent to 2 percent for the payment made from 1 October 2020 to 31 December 2021, only for the withholding tax remitted to the Revenue Department through e-withholding tax system.

2. Extension of deadlines for PIT filing and payment

The deadline to submit PIT return and pay PIT for 2019 is extended from 31 March 2020 to 31 August 2020.



Home



Summary



EMEA



AMERICAS



AP

Taxation

3. PIT exemption for medical staff

Income that medical staff (including doctors, nurses, medical technologists, medical laboratory scientists, patient transport drivers, and other persons with medical experience appointed by the Ministry of Public Health) receive from their duty during COVID-19 pandemic is exempt from PIT for FY 2020.

4. Increase of allowance limit for health insurance premium

Allowance threshold for health insurance premium is increased from THB 15,000 to THB 25,000, but not exceeding THB 100,000 when included with the life insurance premium for FY 2020 onwards.

5. Special deduction for donating money to combat COVID-19 situation

Allowance deduction of not exceeding 10 percent of net income is provided for individual taxpayer for donating money through the e-donation platform to the Office of the Prime Minister's bank account during 5 March 2020 to 5 March 2021.

Withholding Tax

Extension of deadlines for withholding tax filing and remittance

The submission of withholding tax return form and the remittance of such tax for March 2020 and April 2020 that are due in April 2020 and May 2020, respectively, will be extended until 15 May 2020."

VAT

1. Extension of deadlines for VAT filing and payment

- a. The deadlines to file monthly VAT return form (Phor. Phor. 30) for the tax months March 2020 and April 2020 are extended to 23 May 2020.
- b. The deadlines to file VAT remittance form (Phor. Phor. 36) for March 2020 and April 2020 are extended to 15 May 2020.

2. Acceleration of VAT refund process for good exporters

The VAT refund period for internet and paper-based refund filing will be shortened to 15 days and 45 days respectively for private and public companies that are approved as "good exporters" by the Revenue Department.



Home



Summary



EMEA



AMERICAS



AP

Taxation

3. VAT exemption for donating asset to combat COVID-19 situation

VAT registrant is exempt from VAT for donating asset to the Office of the Prime Minister's bank account during 5 March 2020 to 5 March 2021.

Specific Business Tax (SBT)

Extension of deadlines for SBT filing and payment

The deadlines to file monthly SBT return form (Phor. Thor. 40) (except for the sale of real estate for commercial purposes) for March 2020 and April 2020 are extended to 23 May 2020.

Stamp Duty

Extension of deadlines for Stamp Duty returns filing and payment

For business operators that the government has ordered to close their business places due to COVID-19 situation, the deadline to file Stamp Duty return form and pay Stamp Duty in cash which are due from 1 April 2020 to 15 May 2020 is extended to 15 May 2020.

Excise / Import duties

1. Exemption of import duty

- a. Imported goods that are related to treatment or prevention of COVID-19 are exempt from import duty.
- b. Surgical mask classified under HS code 6307.90.40 is exempt from import duty during 24 March 2020 to 30 September 2020.
- c. Anti-pollution mask or respirator classified under HS code 6307.90.90 is exempt from import duty during 24 March 2020 to 30 September 2020.
- d. Raw material that will be used to produce surgical mask classified under HS code 6307.90.40 or respirator classified under HS code 6307.90.90 is exempt from import duty. The raw material must be used for the said purpose within one year from the date of importation and after the Customs Department approved the import duty exemption request to import such raw material. The importer must be granted import duty exemption for the importation of raw material before 30 September 2020.

2. Extension of re-export period

The initial six months re-export period on temporary importation of duty-exempt products may be granted an extension under Category 3 Part IV of the Customs Tariff Decree, B.E. 2530 (1987).



Home



Summary



EMEA



AMERICAS



AP

Taxation

3. Extension of storage period

The storage periods of duty-exempt imports stored in Customs Bonded Warehouse, Customs Free Zone, and IEAT Free Trade Zone are extended as follows.

Duty Privilege Scheme

Type

Extension Period

Customs Bonded Warehouse

General, duty-free shop, in-flight selling of duty-free merchandises, manufacturing, and bond depository

Maximum of 1 year from the ending of the previous extended storage period

Liquefied petroleum gas (LPG) and oil

Maximum of 1 year from the ending of storage period

Vessel repair or construction and goods demonstration or exhibition

As necessary

Customs Free Zone

Industrial operation and commercial operation

Maximum of 1 year from the ending of the storage period

Business operators that previously have been granted with an extension



Home



Summary



EMEA



AMERICAS



AP

Taxation

IEAT Free Trade Zone

Industrial operation and commercial operation

Maximum of 1 year from the ending of the storage period Business operators that previously have been granted with an extension

Excise

1. Extension of deadlines for Excise Tax filing and payment

- Deadlines for Excise Tax filing and payment that are due during March to May 2020 for entertainment service business operators (e.g. nightclub and golf course) are extended to 15 July 2020.
- Excise Tax filing and payment for petroleum manufacturers are generally due within 10 days after the Excise Tax liability takes places. For Excise Tax liability of petroleum manufacturers that occurs during April to June 2020, the deadlines for tax filling and payment are extended to the 15th day of the subsequent month that Excise Tax liability occurs.

2. Extension of deadlines for submitting daily account and monthly financial statement

By virtue of the Excise Act, manufacturers and business operators are generally required to file daily accounts of each month by the 15th day of the following month. In light of COVID-19 situation, manufacturers and business operators are permitted to submit the daily accounts for the period during March to May 2020 by 15 July 2020.

3. Reduction of Excise Tax rate for jet fuel

Excise Tax rate for jet fuel is reduced from THB 4.726 per litre to THB 0.20 per litre for domestic flights until 30 September 2020.

4. Excise online services

- Taxpayers can submit the suggested retail price (Porsor. 02-01 form) or service fee (Porsor. 02-02 form) through Excise Department website (www.excise.go.th) instead of paper-based submission at Excise Department office until 15 July 2020.
- Taxpayers intending to use the Excise paid mark or to stop using the Excise paid mark can notify the Excise Department of its intention through email instead of paper-based submission until 15 July 2020.



Taxation

- c. Manufacturers can apply through emailing to the Excise Department until 15 July 2020 for 0 percent Excise Tax on oil and oil products as well as hydrocarbon solvent that is used as raw materials in manufacturing process.

Other Taxes

The rate for registration fee for the transfer or mortgage of immovable property and condominium under the debt restructuring scheme is reduced to 0.01 percent until 31 December 2021.

Comments

This content is up to date as at 16 April 2020. The above includes only key selected tax measures and may be subject to further changes.



Home



Summary



EMEA



AMERICAS



AP

Foreign Investment Restrictions

Regarding investment licensing issues

On 31 March 2020, the Prime Minister issued Directive No. 16/CT-TTg ("**Directive 16**") to start nationwide social distancing from 01 April to 15 April 2020. Accordingly, the implementation of nationwide social distancing for 15 days was effective from 0:00 on 01 April 2020 on a national scale. This social distancing has been extended until 22 April 2020 in 12 provinces and central cities, including Hanoi and Ho Chi Minh City. From the issuance of Directive 16, the foreign investment licensing authorities in Hanoi and Ho Chi Minh have switched to work from home mode and maintained minimal team in the office. Specifically, in Ho Chi Minh the online filing and postal delivery submission for both investment registration procedures and enterprise registration procedures are now implemented. The procedures are newly implemented and unprecedented, and therefore may cause confusion to investors.

In Hanoi, investment registration procedures are still conducted through physical submission mode while the enterprise registration procedures are conducted through the on-line systems and hard copies of the documents will be submitted by post.

Due to the online filing regime and work from home arrangement, the filing process has been impacted. Specifically, at this time it is very challenging to arrange a meeting with the authorities to discuss, explain and clarify with them about the content of the applications if they issue any request for supplement or further explanation and the process timelines would also prolong.

Regarding support from the Government

During the social distancing period, the licensing authorities in Ho Chi Minh City (i.e., the Department of Planning and Investment and the Department of Industry and Trade) have been supportive to allow enterprises delay filing the application dossiers and not impose administrative penalties on the applicants for such delayed filing.

Additionally, the Department of Planning and Investment and Postal Office in Ho Chi Minh City have agreed a 20% discount of postal fee for all applications.



Home



Summary



EMEA



AMERICAS



AP

Debt

In recognition of the growing complexity and unpredictability of the Coronavirus (COVID-19) pandemic worldwide and locally, the State Bank of Vietnam ("**SBV**") has issued guidance and various recommendations for credit institutions and branches of foreign banks ("**FIs**").

Annual key targets for the economy in general and for the banking and finance sectors in particular shall remain unchanged, especially regarding the stabilization of the financial market, inflation control, growth support and restructuring together with resolution of nonperforming loans of FIs. Accordingly, the Government maintains average inflation below 4%, increasing credit limit of 14% and the increasing total payment means of 13% in 2020. In addition, so far the State Securities Commission confirmed that the stock exchanges of Vietnam will be open per normal regardless of Coronavirus. Online banking and virtual conferences are encouraged.

On 4 March 2020, the Government has issued Directive No. 11/CT-TTg regarding urgent objectives and solutions for assisting businesses facing difficulties and assurance of social security for COVID-19 pandemic situation ("**Directive No. 11/CT-TTg**"). Accordingly, the Government requests the SBV to implement the following requirements, among others:

Timely guide the FIs to balance, fully and promptly meet capital needs for production and business, accelerate administrative procedure reform, shorten the time for loan approval, improve the access to the loans for customers; promptly apply supportive measures, i.e., rescheduling payment term, considering reduction of interest rate, keeping the debt group, reducing fees, etc. for customers who are in difficulties due to the effects of COVID-19 (firstly, the credit support package is about VND250 trillion).

Coordinate with the Ministry of Planning and Investment, the Ministry of Finance and relevant State agencies to urgently propose appropriate credit policies to remove difficulties for those who are affected by COVID-19 and report to the Prime Minister in March 2020.

Pursuant to the Directive No. 11/CT-TTg, the SBV has issued Circular No. 01/2020/TT-NHNN dated 13 March 2020. In general, customers who are (i) under obligation to repay the principals and/or interest arising between 23 January 2020 and the following day after 03 months from the date the Prime Minister announces the end of the COVID-19 pandemic; and (ii) are unable to pay the debts and/or interest in due time because of decreases in revenues and incomes caused by the impacts of the COVID-19 pandemic are entitled to the credit support by FIs ("**COVID-19 Affected Customers**"). Exempt or reduce interest: FIs to waive or reduce the interest applicable to the COVID-19 Affected Customers in alignment with the FIs' internal regulations for the outstanding loans arising from credit extension operations (except for activities of buying and investing in corporate bonds); Maintain classification with regard to the debt balances subject to loan repayment rescheduling, interest and/or fee exemption and reduction of the eligible debts affected by the COVID-19 outbreak. FIs should review and set up risk provisions for the restructured terms; but no need to escalate to the debt groups with higher risk levels. Provide credit extension for business stabilization in accordance with the laws.



Home



Summary



EMEA



AMERICAS



AP

Debt

However, the extension for each loan should not be over 12 months as from the original maturity date.

FIs shall have great flexibility in determining customers being affected from the COVID-19 Affected Customers, including among others, the criteria regarding the customers' revenues and incomes reduced because of COVID-19 pandemic. For the time being, the SBV has no further instructions on the key criteria for such assessment.

Furthermore, the SBV reduced several interest rates to boost the economic activity in responding the revolution of the Coronavirus pandemic: Refinancing rate being cut from 6.0% p.a to 5.0% p.a. Discount rate being reduced from 4% p.a to 3.5% p.a. Overnight lending rate in the interbank market being decreased from 7% p.a to 6% p.a. The overnight interbank interest rate updated on 8 April 2020 is 2.7% p.a. Maximum VND banking lending interest rate for short-term loans being lowered from 6% p.a to 5.5% p.a. Interest-rate cap for VND deposits with maturities of one month to less than 6 months being trimmed down from 5% p.a to 4.75% p.a.

The SBV also issued Circular No. 04/2020/TT-NHNN on 31 March 2020, amending Circular No. 26/2013/TT-NHNN, to reduce minimum settlement fees by 50 percent via the interbank electronic payment system in the period from 1 April 2020 to 31 December 2020. As provided in Directive No. 02/CT-NHNN dated 31 March 2020 of the SBV, banks is requested, among others, not to pay cash dividends and to cut back operating expenses to procure efficient capital for the reduction of lending interests for current and new lending activities.

It is worth noting that in early April, other Ministries has proposed various financial solutions to mitigate the impact of the COVID-19 pandemic on the economic: Ministry of Planning and Investment proposed a draft Resolution on the Government's fiscal package to support poor and low-income households. The package mounted to VND61,500 billion (approx. US\$2.6 billion) and would be distributed as cash payments during a three-month period from April to June to six eligible groups. Ministry of Finance proposed for extension of tax and land lease payment deadlines with a total sum of VND180 trillion (approx. US\$7.82 billion) for entities affected by the COVID-19 in 20 sectors, more than double the VND80 trillion (approx. US\$3.47 billion) proposal made on March 2020. Ministry of Industry and Trade proposed a 10 percent discount on electricity rates in the period of 3 months in order to reduce difficulties for entities, households affected by the COVID-19.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



Is state support for distressed business available?

Yes. The support from the Government includes:

- Banks to provide support to customers - The State Bank of Vietnam reduced interest rate to boost the economic activity. In addition, there are several supports to business, including debt repayment term restructure, exemption and reduction of borrowing interest, debt group maintenance and credit extension for business stabilization. The support will be applicable to business (i) under obligation to repay the principals and/or interest arising between 23 January 2020 and the following day after 03 months from the date the Prime Minister announces the end of the Covid-19 pandemic; and (ii) are unable to pay the debts and/or interest in due time because of decreases in revenues and incomes caused by the impacts of Covid-19 pandemic.
- Bailout package to support the people affected - On 9 April 2020, the Prime Minister introduced bailout packages of VND 62,000 billion (approx. USD 2.6 billion) (the "Package") to support people and business affected by Covid-19 pandemic during a three-month period from April to June. The business eligible are impacted employers, household businesses with revenues below VND 100 million (USD4,250) a year. Vietnam Bank for Social Policies will also provide collateral-free, zero-interest loans to employers facing financial difficulties, who have paid at least 50% of salaries in advance to their employees during their suspension of work for the period from April to June 2020, to pay salaries for their furloughed employees for the three-month period.
- Deferral in payment of tax and land rental - The Government extends the deadline for paying tax and land rental fee for a number of taxpayers, including companies in sectors of agriculture, transportation, tourism, entertainment, etc, small and extra-small enterprises, and credit institutions providing supporting services for clients affected by the COVID-19 epidemic. The deferral is applicable to payments of value-added tax (VAT) (except for VAT paid upon importation of goods), corporate income tax (CIT), personal income tax (PIT) for households and individuals doing business, and land rental.



Home



Summary



EMEA



AMERICAS



AP

Insolvency



- Suspension of Social Insurance Contribution to Retirement and Survivorship Funds - The suspension is applicable to enterprises in service of passenger transport, tourism, accommodation, restaurant and other special industries experiencing difficulties due to COVID-19, which fall under either of the following circumstances:
 - a) Enterprises cannot provide work for employees, in which the number of employees who are subject to social insurance contribution but must temporarily suspend working is 50% or more of the total number of available employees before the business suspension; or
 - b) Enterprises suffer losses greater than 50% of the total value of assets due to COVID-19 (excluding land value).
- Suspension of Trade Union Fee Contribution - The Government allows for the delay of payment of trade union fees during first six months of 2020 until 30 June 2020. Nevertheless, this delay is only applied to enterprises which have at least 50% of the total number of employees who are subject to social insurance contribution but must temporarily suspend working.

Are dispensations being granted or amendments made (such as restrictions on creditor actions) in light of COVID-19? If so, what are the relevant conditions?

No.

Is further reform of the insolvency regime being discussed/anticipated? If so, give details.

No.

Equity

No (semi-) equity measures have been announced.



Home



Summary



EMEA



AMERICAS



AP

Taxation

Corporate Income Tax

The Prime Minister issued Directive No. 11/CT-TTg ("**Directive No. 11**") on 4 March 2020 to assign the relevant ministries to implement action plans to support businesses experiencing difficulties due to the impact of COVID-19. Among those, the Ministry of Finance (MOF) is required to present action plans on the following:

- granting the deferral of tax payments;
- granting tax and fee exemptions or reductions;
- developing certain corporate income tax policies for small and medium enterprises; and
- simplifying tax administrative procedures.

Following Directive No. 11, the Government issued Decree No. 41/2020/ND-CP ("**Decree No. 41**") with immediate effect from 8 April 2020. Decree No. 41 grants deferral of tax and land rent payments to a number of business sectors that belong to one of the following groups:

- Group 1, which includes enterprises, organizations, households and individuals conducting agricultural, forestry and aquacultural manufacturing; foodstuff production and processing; textile; apparel production; leather processing and related products; lumber processing and products made from wood, bamboo (except beds, closets, tables, chairs); products made from straw, braided materials; paper processing and paper products; rubber and plastic products; products made from non-metal minerals; metal processing; mechanical processing; metal coating; electronics, computers and optical products; automobiles and other motor vehicles; manufacture of beds, closets, tables, chairs; and construction.
- Group 2, which includes enterprises, organizations, households and individuals conducting business in transportation and warehousing; accommodation and catering; education and training; healthcare and social support activities; real estate; employment service; travel agency, travel services and auxiliary services relating to promotion and organization of travel tours; art and entertainment; libraries, archives, museums and other cultural activities; sports, recreation and entertainment; and cinemas.
- Group 3, which includes enterprises, organizations, households and individuals manufacturing prioritized supportive industrial products and major mechanical products.



Home



Summary



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Taxation

- Group 4, which includes small and ultra-small enterprises; and
- Group 5, which includes credit institutions, foreign bank branches implementing measures to support enterprises, organizations and individuals affected by the COVID-19 pandemic, as announced by the State Bank of Vietnam.

Decree No. 41 grants a five-month deferral of CIT payment for the remaining FY 2019 tax finalization and provisional tax payment of Quarter 1 and Quarter 2/2020. If the remaining FY 2019 tax finalization amount has been paid, it can be offset with other tax payables

Social Security/ Employment / Wage Taxes / Personal Income Tax

The Ministry of Finance proposed an increase in deductions for personal income tax purposes. Particularly, the deduction for the taxpayer is proposed to increase to VND 11 million/month from the current VND 9 million/month and deduction for dependants is proposed to increase from VND 3.6 million to VND 4.4 million/dependent/month

Personal Income Tax

PIT and VAT - business households and individuals are allowed to defer any tax payables for 2020 until 31 December 2020.

VAT

Eligible taxpayers of the above groups will enjoy a five-month deferral of VAT payments for March, April, May, and June 2020 (for monthly VAT declaration) or Quarter 1 and Quarter 2/2020 (for quarterly VAT declaration). However, VAT declarations must still be filed in accordance with the timeline. This deferral also applies to branches and subordinates of similar business lines located in other provinces.

Excise / Import duties

Under Directive No. 11, the Ministry of Finance is required to present action plans on suspending periodical customs inspections (and also tax inspections) during 2020 on enterprises which have no sign of non-compliance, as well as simplifying customs admin.

Other Taxes

Under Directive No. 11, the Ministry of Finance is required to present action plans on granting deferral of land rent payments.

Eligible businesses in any of the five groups that lease land directly from the State can defer the first payment of annual land rent for five months until 31 October 2020.



Home



Summary



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Taxation

Comments

Business entities and individuals engaged in multiple business lines, including those specified in Groups 1, 2, 3 and 5, are entitled to full payment deferral of their payable tax amounts (VAT, CIT and PIT).

To benefit from the tax and land rent payment deferrals, eligible taxpayers are required to submit a prescribed deferral payment request (form attached to Decree No. 41) via electronic or other means to the local tax authority at the monthly or quarterly tax filing but **no later than 30 July 2020. Beyond this date, no deferral requests will be granted.** This form is filed only once for the whole deferral period. Taxpayers are responsible for self-assessing their eligibility for the deferral. Tax authorities are not required to issue notices to accept the deferral.

It is expected that the Government will issue specific rules to implement more tax relief measures in the coming months.

Please contact us to obtain updates. Please see here our client alert.



To read more about this topic, please see this alert: [Vietnam: Tax and Land Rent Deferral Available to Certain Businesses and Industries in Vietnam to Relieve the Impact of the COVID-19 Pandemic](#)

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An abstract graphic consisting of multiple overlapping, wavy lines in various shades of blue. The lines are composed of small dots and connect to form a mesh-like structure that flows horizontally across the page, creating a sense of motion and depth.

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