

# COVID-19 WEBINAR

## Managing through a crisis

**Latest Updates for Business | Part 3 in the series**

Wednesday 1 April





# COVID-19 WEBINAR

**Managing through a crisis  
Latest Updates for Business**



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# Managing through a crisis

Key issues for business in the current environment



# Fiscal facilities granted during the state of emergency, through G.E.O. no. 33 / 2020

## 1 Bonuses granted for on-time payment of profit tax or tax on the income of microenterprises due for the first quarter of 2020



The Ordinance grants a discount to taxpayers who pay their profit tax / quarterly advance payment for the first quarter of 2020 (due on 25 April 2020) on time.



The discount is applied by the paying entities and has a different amount, depending on the category in which the taxpayer falls, as follows:

- Large taxpayers benefit from a 5% discount;
- Small and medium-sized taxpayers, as well as taxpayers which do not fall into any of these categories (for example, foundations, NGOs, private schools etc.) receive a 10% discount.



Corporate tax reductions also apply to taxpayers, which:

- pay specific tax and carry out other activities for which profit tax is due (these reductions apply only to the profit tax due by these taxpayers)
- have opted for a different financial year than the calendar year, provided they pay the amounts due by deadlines set between 25 April and 25 June 2020

## 2 Import VAT deferment for goods needed to combat the COVID-19 pandemic for taxable persons registered according to art. 316



During the period of state of emergency and for thirty days after its termination, the obligation to pay VAT at the time of import for medicines, protective equipment, other medical devices or medical equipment and sanitary equipment needed to combat the COVID-19 pandemic is deferred. The payment of the VAT is not suspended but only postponed.

## 3 The Ordinance (Article 3) also gives an important clarification on eligibility for the Certificate for Emergency Situations ("CSU"). Thus, companies may report, on their revenues or their receipts, by means of an affidavit, when determining the decrease in income caused by the state of emergency.



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## Implications for work relationships

# Technical unemployment

- Allowance of minimum 75% of the base salary
- Amount borne from the unemployment insurance budget is capped at 75% of the average gross salary (5.429 RON)
- Employers may supplement the allowance from their own funds



- Employers reduce or cease totally or partially their activity as a consequence of the COVID-19 pandemic, during the state of emergency period, in accordance with their own statement

- No limitations on the number of employees who can benefit from the allowance
- There are certain limitations for employees with simultaneous employment contracts
- Freelancers, sports people and individuals deriving exclusively income from intellectual property rights may benefit from the technical unemployment allowance if their activity has ceased as a consequence of the COVID-19 pandemic



- The applications are filed in the current month for the previous month
- Payment from the unemployment insurance budget is made within 15 days from filing the documents
- Payment to the employees is made within maximum 3 days from receipt of the funds by the employer



# Q&A





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Moratorium on credit  
agreements - GEO 37/2020

Legal conditions and  
effects for individuals  
and companies.

# GEO 37 - Moratorium on credit agreements

## To whom will it apply?

*On 30 March 2020, Government Emergency Ordinance no. 37/2020 ("GEO 37/2020") on the granting of facilities for loans granted by credit and non-banking financial institutions to certain categories of debtors was published in the Official Journal of Romania.*

### CREDITORS:

- 1** Credit institutions, as defined by GEO no. 99/2006 on Credit Institutions and Capital Adequacy.
- 2** Non-Banking Financial Institutions, as defined by Law 93/2009 on non-Banking Financial Institutions, and;
- 3** Branches of credit institutions and foreign non-banking financial institutions operating in Romania.

### DEBTORS:

- 1** Individuals
- 2** Freelancers, individual and family businesses, liberal professions
- 3** Legal entities (except for credit institutions that act as borrowers in credit agreements)



# GEO 37 - Moratorium on credit agreements

## Granting conditions

Debtors must meet a number of **cumulative conditions**, i.e.:

- 1 **Not to have registered arrears** for the payment of credits on the date of the establishment of the state of emergency in Romania, i.e. 16 March 2020 or to have made the payment of these outstanding installments by the date of filing the suspension request.
- 2 **Revenues must be directly or indirectly affected** by the COVID-19 pandemic;
- 3 The credit agreement **must not have reached maturity**;
- 4 the creditor **must not have declared the early maturity of the loan**, prior to the entry into force of GEO 37/2020.

**In addition, debtors, except individuals, must:**

- 1 a) Either have interrupted their activity in whole or in part as a result of the decisions issued by the public authorities, during the state of emergency, and for this reason hold an emergency certificate, (b) Or hold an emergency certificate which indicates, based on the debtor's statement, a diminishing of incomes or revenues attested in March by a minimum of 25% by reference to the medium obtained in January and February, (c) Or hold an emergency certificate which attests the suspension or interruption of the activity.
- 2 **and**  
Not be in **insolvency** as at the date of requesting the suspension of the credit repayment.

# GEO 37 - Moratorium on credit agreements

## Granting procedure



Both individuals and legal entities send an **application/request** to the creditors in relation to the suspension of the repayment, interest and commissions, also indicating the period for which they **want to apply the suspension measure**.



**When is the application deadline?** Within 45 days from the date of the entry into force of GEO 37/2020.



**Where should the application be submitted?** Using the contact details of the credit agreement or through another remote communication means offered by the creditor.



**How should the application be submitted?** The request may be by letter or in electronic format (by electronic mail) or by telephone (via the number announced on the creditor's website), in which case the creditor has the obligation to record the call.

### The creditor:



**Analyzes the application** (implicitly also verifies the fulfillment of the eligibility conditions previously mentioned).



**Approves** it under the conditions provided in the implementation rules.



**Extends** the duration of the credit agreement (by the period indicated in the application)





# GEO 37 - Moratorium on credit agreements

## Legal effects



It is possible to obtain the **suspension for a period between 1-9 months** of the repayment of the principal, interest and commissions, according to the application/request filed.

**The suspension takes effect from the date of communication of the request for suspension, for requests approved by the creditor.**



The credit agreement is **extended by** the period corresponding to the period of suspension;

**The maximum credit period** can be extended by a period equal to the duration of the suspension;

In the case of individuals, if the extension of the maturity exceeds the age limit, the restructuring is carried out while respecting the age limit;



The interest due on the suspension period is **capitalized on the existing credit balance at the end of the suspension period**. The increased capital will then be paid in installments for the remaining period until the new maturity of the **credit – i.e. at a higher rate**



**The legal effects take place based on the provisions of OUG 37/2020. There is no need to conclude addendums to the credit agreements**

# GEO 37 - Moratorium on credit agreements

## Legal effects - mortgage credits



**Exceptions for mortgage credits contracted by individuals** (which include credits secured by mortgages, credits involving a right related to immovable property, including credits granted through the “Prima Casa” program)



**In the case of mortgage credits** contracted by individuals, by exception, **the interest will not be capitalized**, but it will represent a distinct debt, which will be paid in 60 equal monthly installments.

For this debt the interest rate is 0%.



The Romanian State, through the Ministry of Public Finance (MPF), which mandates FNGCIMM, guarantees with a percentage of **100%** the payment of such interest

FNGCIMM will issue, for this purpose, letters of guarantee in favor of creditors.



The receivables arising from the payment by the state of the guarantees, i.e. the amounts paid to the creditors based on the letters of guarantee, are **budgetary debts** and are to be recovered from the debtors by the competent fiscal bodies.



There is no need for an addendum to the credit agreement. The creditors must revert to the debtors within 30 days from the date when the request was received, also notifying the debtor of the clauses amended for the purposes of implementing the Ordinance’s provisions,



# GEO 37 - Moratorium on credit agreements

## To remember:



- GEO 37/2020 needs Implementing Norms that should be approved by GD within 15 days from its entry into force.
- GEO 37/2020 also applies to leasing agreements;
- GEO 37/2020 applies when the creditor is a Romanian legal entity, and does not cover situations of international financing.
- Leasing companies, factoring companies, insurance companies, etc. can also benefit, as debtors, from GEO 37/2020.
- GEO 37/2020 refers strictly to the suspension of the payment of the due amounts, and does not refer to other facilities related to penalty interest, foreclosures, etc.
- For debtors that do not qualify for obtaining such suspensions, credit agreements continue to produce effects (including in terms of penalty interest rates, early repayment, foreclosure, etc.).

# Moratorium on credit agreements

## Draft Law B 115/2020

In the Senate a draft law has been registered, under no. B115/2020 entitled "**Law for the suspension of credit repayments**", **with major** differences to the provisions of GEO 37/2020, including:

### → A. Area of applicability

- It does not apply to legal entities, other than SMEs;
- It may benefit debtors with payment delays (**except for debtors with delays in payment of more than 90 days**)

### → B. When will it become applicable?

From the communication date of the request for suspension addressed to the creditors

### → C. Legal effects

Credit agreements are extended by the suspension period.. Interest is not capitalized

### → D. There are no provisions on the granting of guarantees by the state



# Moratorium on credit agreements

## Conclusions



- **A new law may amend substantially or even abrogate GEO 37/2020**
- **The 45 days period to submit requests on the basis of GEO 37/2020 has started to run**
- **The implementing norms for GEO 37/2020 should clarify all the conditions for approval of requests by the creditors**
- **Parties have the possibility to agree specific solutions considering particular situations**

# Q&A





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## Emergency Certificate





# How to obtain the emergency certificates (ECs)?

## CERTIFICATE FOR EMERGENCY SITUATION TYPE 1

for total or partial interruptions of activity, due to the decisions issued by the competent public authorities, in accordance with the law during the state of emergency

## CERTIFICATE FOR EMERGENCY SITUATION TYPE 2

for cases of a decrease of cash-in in March 2020 by a percentage of minimum 25% compared to the average income during January – February 2020

- ✓ Issued **free** of charge by the Ministry of Economy (MEEMA), **automatically and in electronic format** through the platform <http://prevenire.gov.ro/>, only during the state of emergency period.
- 📄 **Necessary Documents** : Own statement (regarding the information and the documents submitted) and documents regarding the relevant authorization for the activity of applicants which are not registered in the Trade Registry.
- ❓ **Evidence for the relevant situation of the applicant?**
- 👤 Only through electronic signature of the legal representative or the proxy

## Potential issues:

- 🕒 What does the EC acknowledge:
  - (i) submission of the relevant statement or
  - (ii) the impact on the applicant of the measures taken during the state of emergency period?
- 🕒 Do we need an original? – it may be verified only with the serial number
- 🕒 Seasonal activities?

# Benefits for EC holders

1

**For SMEs which have interrupted their activity, totally or partially, due to the decisions issued by the competent public authorities during the state of emergency period:**

- ➔ Delay in payment of utilities – electricity, gas, water, telecom services and internet, during the state of emergency.
- ➔ Delay in payment of the rent for the premises used as headquarters or working units, during the state of emergency.
- ➔ (relative) presumption of force majeure.
- ➔ During the state of emergency no penalties for delayed performance of contracts concluded with public authorities shall accrue.

2

**Public notaries, lawyers, bailiffs, family doctor's firms, dentists' firms (with no more than 20 people), national sport federations and sport clubs holding a sport identity certificate:**

- ➔ Delay in payment of utilities – electricity, gas, water, telecom services and internet, during the state of emergency.
- ➔ Delay in payment of the rent for the premises used as headquarters or working units, during the state of emergency.

3

**suspension of the payment obligations related to instalments (principal, interest and commission) of loans granted to legal entities before 30 March 2020 , if such legal entities are not in insolvency at the request date.**

# Q&A







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## Legal nature of the CES

There may be the risk that the Ministry could refuse the issuance of a CES for the lack of documents. What can be done in this case?

- **Legal nature of the CES – common deed or administrative deed?**
  - **Automatic issuance after the validation of the request**
- **Practical option: filing a new request with the complete documentation**

But once the CES has been issued, can it be challenged?

- **The reality of the state of emergency and the documentation which stood as a basis for the own liability declaration will be checked by the competent state bodies after the CES is issued.**
- **A third party, if it has suspicions in relation to the reality of the documentation submitted for the issuance of the CES may file a notification to the competent state bodies to verify the reality of the documentation**
  - **Can we challenge the factual situation of the requestor or the CES?**

# Q&A







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Can we work from  
home efficiently  
without risk?



# Working from Home





# Issue number 1

Can we work from home efficiently without risk?





# Issue number 2

Can we work from home efficiently without risk?



# Issue number 3

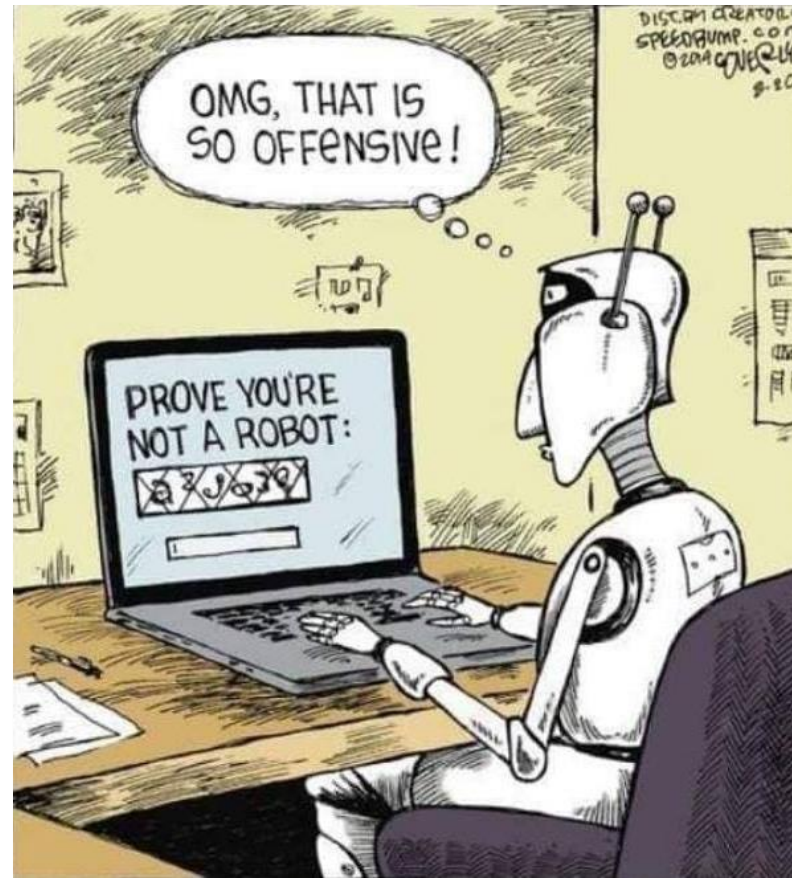
Can we work from home efficiently without risk?





# Issue number 4

Can we work from home efficiently without risk?





# Issue number 5

Can we work from home efficiently without risk?



**"Information security is a major priority at this company.  
We've done a lot of stupid things we'd like to keep secret."**

# Issue number 6

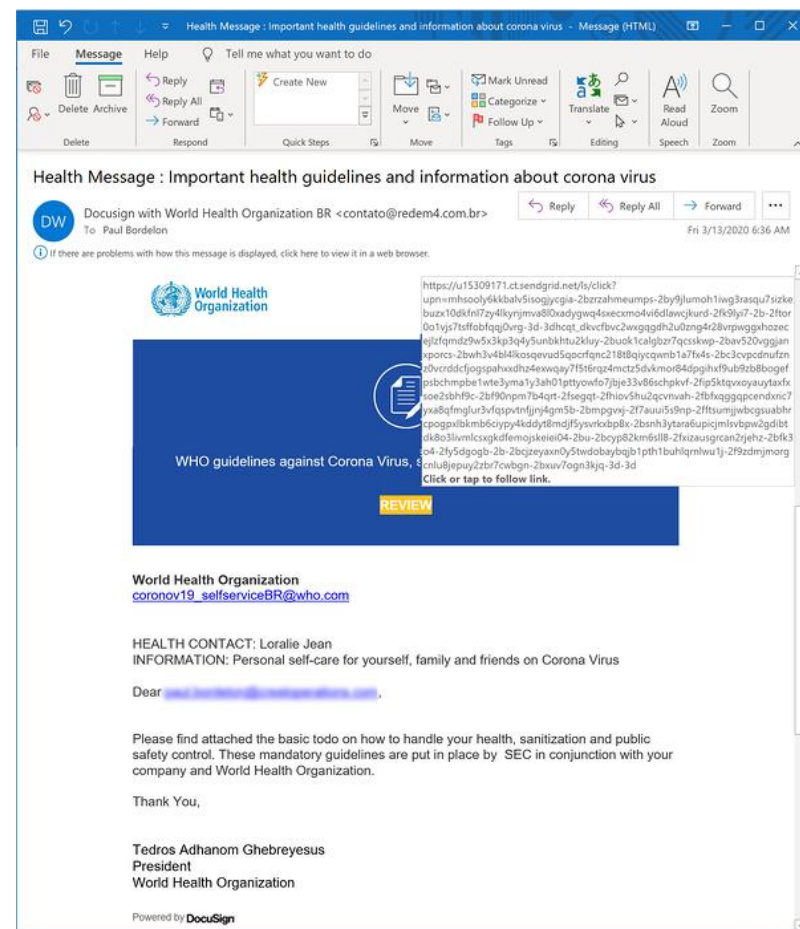
Can we work from home efficiently without risk?

## Emerging threats



# Issue number 6

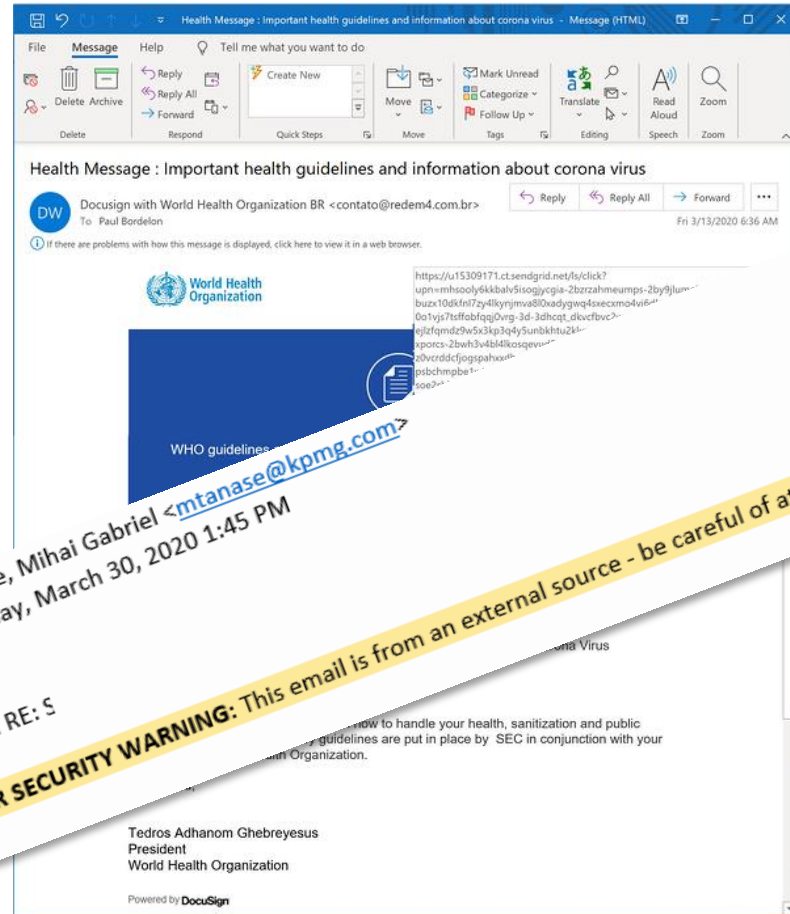
Can we work from home efficiently without risk?





# Issue number 6

Can we work from home efficiently without risk?



# Q&A





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