



COVID-19 WEBINAR

Managing through a crisis

Tax, Legal & Business Impacts
Keeping Connected Virtual Meeting Series

Key issues for business in the current environment



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Key issues for business in the current environment



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Employment law aspects

Technical unemployment

- Allowance of minimum 75% of the base salary
 - The amount to be reimbursed from the employment insurance fund cannot exceed 75% of the average gross salary (5,429 RON)
- Employers which totally or partially cease activity (i) further to the decision of the competent authorities and (ii) have obtained a certificate for the state of emergency issued by the Ministry of Economy
- Employers which reduce their activity as a consequence of the COVID-19 pandemic, (1) and register a reduction in collections of over 25% as compared to the average collections for January – February 2020 and (2) no longer have the financial means to pay salaries to all their employees
 - The allowance can be reimbursed from the unemployment insurance fund for up to 75% of the number of active employees
- Contribution for work insurance (2.25%) is not due by employers on technical unemployment allowances
 - Deadline for payment and declaring the income tax and social contributions – 25th of the month following the month in which the allowances are paid from the unemployment fund

Paid free days granted to parents

The workplace does not allow work from home or teleworking

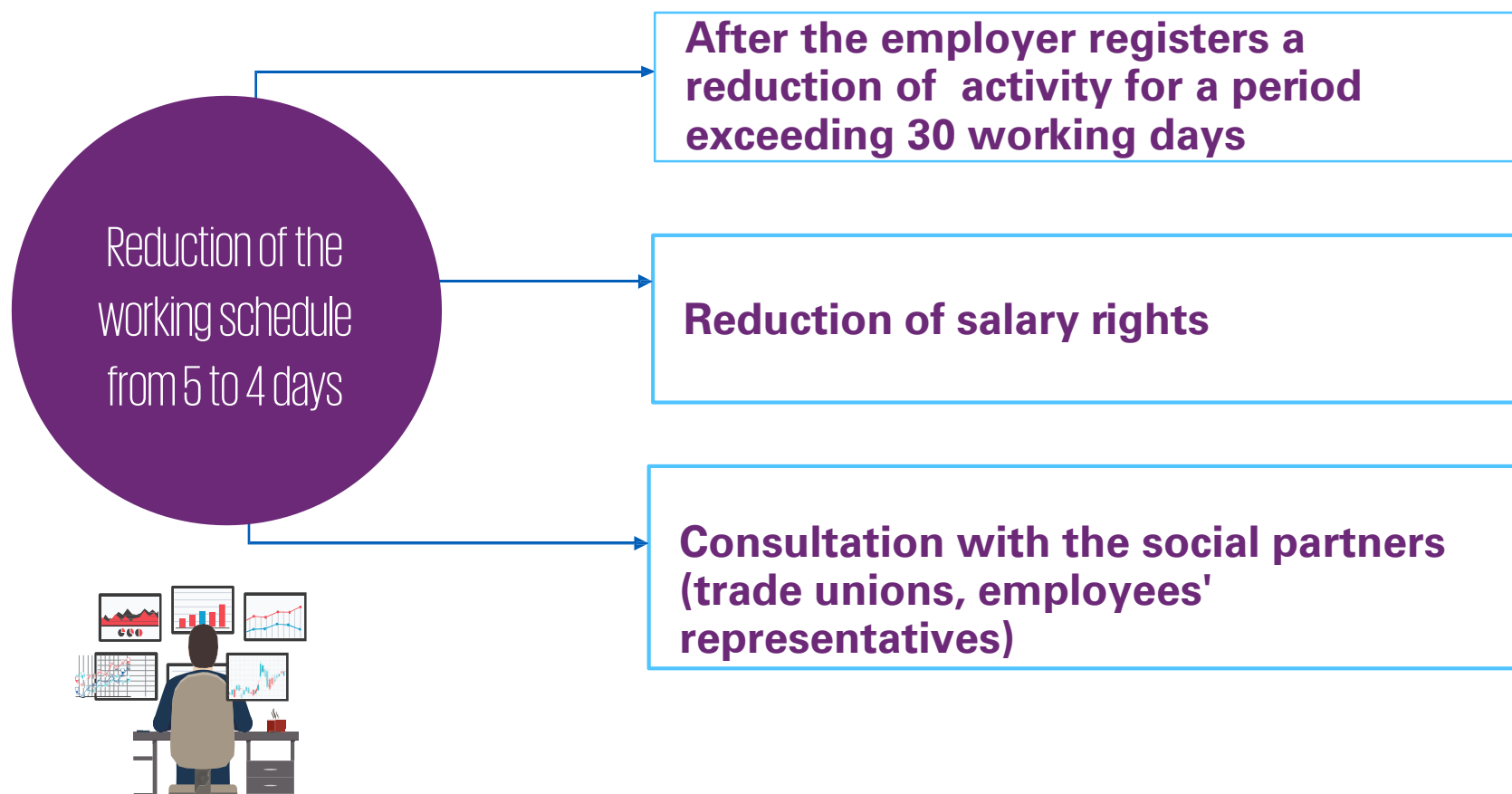
Cannot be granted if one of the parents is in one of the following situations:

- He/she is on leave for raising children of up to 2 years old (3 years old or 7 years old for children with disabilities).
- He/she is the personal assistant of one of the children they care for
- He/she is on annual holiday or unpaid leave
- The employment contract is suspended during technical unemployment
- He/she does not obtain income subject to income tax

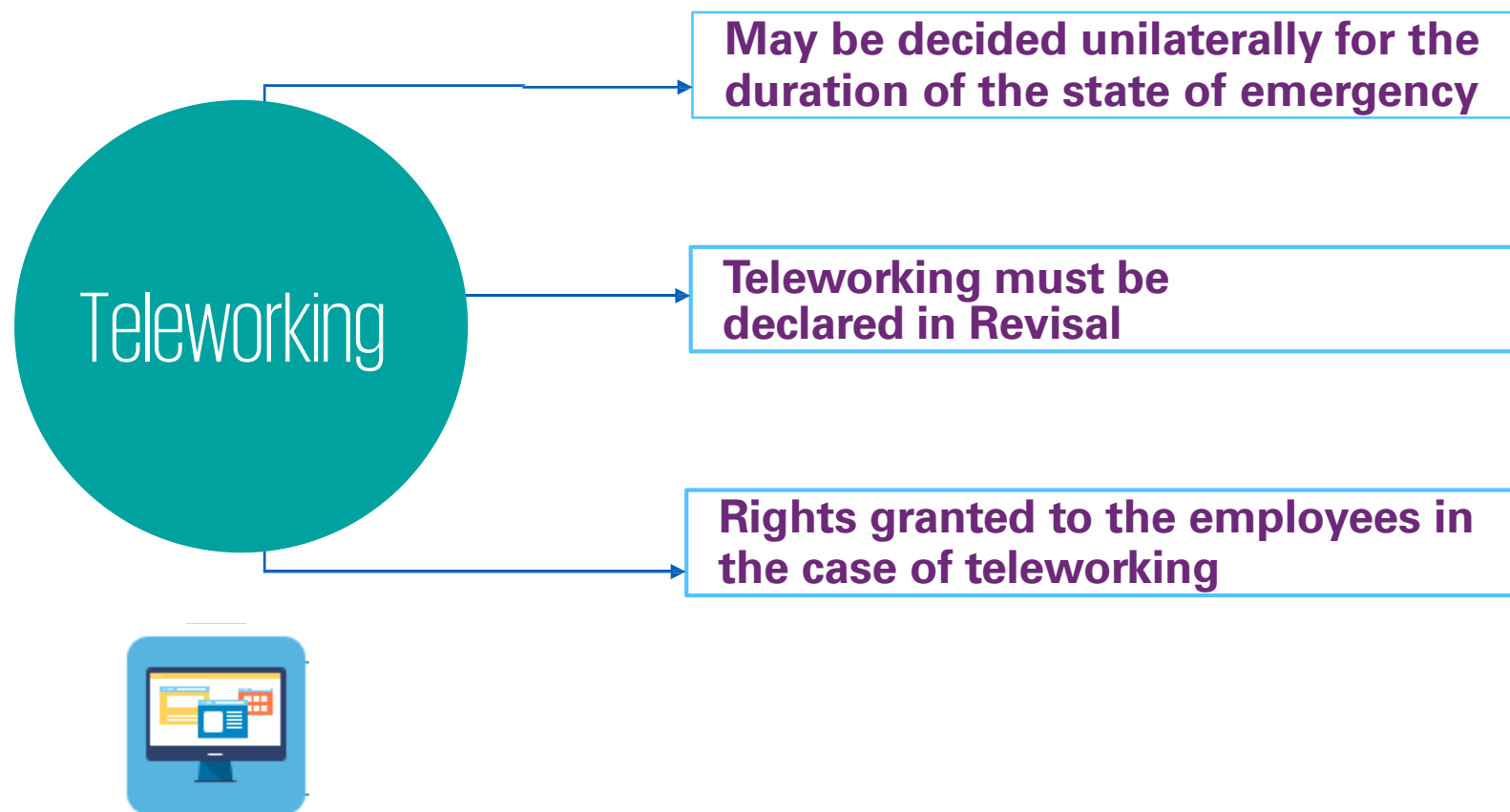
The allowance is 75% of the base salary / working day, capped to 75% of the average gross salary

The documents for claiming reimbursement of the allowances should be filed within 30 days from payment of the relevant income tax and social contributions. The reimbursement of the net allowances will be made within 60 days from the date when the documents are filed.

Reduction of the working schedule



Flexible work arrangements / Teleworking





Q&A





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Dragoș Doros

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GEO 29/2020

**tax relief measures enacted in
response to the COVID-19 outbreak**



Tax obligations which have their due date after 21 March 2020

The ordinance states that for any tax obligations which have their due date after 21 March 2020 and are not paid for up to 30 days after the end of the state of emergency period, taxpayers will not be liable to pay late payment interest and penalties

These obligations will not be categorised as overdue/outstanding as per the Fiscal Procedure Code

Tax foreclosure procedures involving garnishments

Tax foreclosure procedures involving garnishments are suspended or will not be initiated. The suspension measure ceases to produce effects after 30 days from the end of the state of emergency situation, as declared by the Romanian state. These provisions exclude procedures relating to tax receivables established by decisions in criminal proceedings.

All foreclosure proceedings involving garnishments are suspended by the effect of the law, and credit institutions as well as other parties required to enforce them will apply the suspension directly, with no other formalities being necessary from the tax administration

Other tax relief measures

For all quarters of 2020, advanced quarterly payments of corporate income tax by reference to the corporate income tax level of the previous year- Taxpayers are allowed, by exception, to calculate, declare and pay quarterly corporate income tax at the level of the actual profit of 2020. This measure is also applicable to taxpayers with a fiscal year different from the calendar year, in 2020.

Tax on buildings, land and on vehicles -the deadline for payment of the first of the two equal installments which would normally have been due on 31 March 2020, has been deferred to 30 June 2020. If a full payment is made on this date, the reduction of up to 10% granted by local councils to taxpayers who pay the whole amount due in one installment by the earlier deadline, is still applicable.

Tax restructuring and relief measures for overdue tax obligations as at 31 December 2018 which were enacted by GO 6/2019 - remain applicable if the taxpayers who want to access the measures submit notifications of intent by 31 July 2020 (the deadline before deferral was 31 March 2020) and then submit the application for restructuring measures by 30 October 2020 (the deadline before deferral was 31 July 2020).

ANAF press release as of 21.03.2020

The proposal to extend the deadline for filing declarations, has been abandoned, taking into consideration that the Ministry of Finance has launched a comprehensive program for guaranteeing and subsidizing loans for SMEs in order to support the private sector and especially the sectors badly hit by the crisis caused by COVID-19, but also the measure for a fast reimbursement of VAT to ensure cash-flow, and capital injections to companies, for which companies must have an updated fiscal status.

The Ministry of Finance and ANAF have assured taxpayers that in any exceptional cases where solid arguments are presented, a delay in filing declarations will be treated with the clemency allowed by law

Questions

- Which taxes and contributions qualify as budgetary debts?
- What is the legal force of the release of the Environmental Fund Administration (https://www.afm.ro/taxe_declaratii.php) on the deferral of the deadline for tax obligations due on 25 March 2020 to 25 April 2020?
- Will the late filing or rectification of a tax return, after 1 July 2020, have the effect of interrupting the limitation period for the right to settle claims, with the effect of starting a new term of 5 years, from 1 July 2021?
- Can SMEs invoke art. 78 of the Fiscal Procedure Code (force majeure) to counteract the effects of delayed declaration?



Q&A





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Laura Tonescu

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KPMGLegal
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Emergency Certificates: Facilities Under Them

Regulatory framework – EC (Emergency Certificate)

Legal provisions referring to EC:

Under current regulations, the EC is mentioned in:

- Article. 12 of Decree no. 195/16.03.2020 on the establishment of the state of emergency in Romania.
- Article X of GEO no. 29/2020 on some economic and fiscal budgetary measures.
- Article XI of GEO no. 30/2020 for the amending and supplementing of some legislative acts, as well as for establishing measures in the field of social protection and in the context of the epidemiological situation determined by the spread of the coronavirus SARS-CoV-2.

Facilities granted under emergency certificates



1

What facilities are granted to those who hold ECs according to GEO 29/2020?

During the state of emergency, SMEs that (1) have discontinued their activity in whole or in part based on the decisions issued by the competent public authorities during the state of emergency, and (2) hold an EC, benefit from:

- Deferred payment for utility services - electricity, natural gas, water, telephone and internet services, as well as
- Deferred payment of the rent for their headquarters building and secondary offices.



Public notaries, lawyers, enforcement officers, family doctors' offices, dental offices, national sports federations and sports clubs, etc also benefit from the same regime. The criteria on the basis of which the beneficiaries of this measure are established, are determined by Government decision.

Facilities granted under emergency certificates



2

What facilities are granted to those who hold ECs according to GEO 29/2020?

Other ongoing contracts concluded by the SME:

Force majeure affecting an SME can only be invoked after an attempt, demonstrated by documents communicated between the parties by any means, including by electronic means, on renegotiation of the contract, by adapting its clauses, taking into account the exceptional conditions generated by the state of emergency.

The EC attests that the activity of the SME was affected in the sense of art. X, paragraph (3) of GEO no. 29/2020.

Facilities granted under emergency certificates



3

What facilities are granted to those who hold ECs according to GEO 29/2020?

Force majeure is presumed as referred to in 1.351 paragraph (2) C. civ. for SMEs whose activity is affected by an action of the authorities in the application of the measures imposed for the prevention and control of the pandemic caused by the infection with the coronavirus COVID-19 [art. X, paragraph (3) of GEO no. 29/2020 on some economic and fiscal measures].

Effects:

- **there is no need for a force majeure clause in contracts;**
- FMC ("Force majeure certificate") is **is only needed when the force majeure clause in the contracts so requires.**

Facilities granted under emergency certificates



4

What facilities are granted to those who hold ECs according to GEO 29/2020?

The penalties stipulated for delays in the execution of the obligations arising from contracts concluded with the public authorities by the SME are not applicable during the period of the state of emergency.

Facilities granted under emergency certificates



5

What facilities are granted to those who hold ECs according to GEO 29/2020?

Employers that:

- **interrupt their activity partially or totally** based on the decisions issued by the competent public authorities according to the law during the state of emergency and
- **have an EC**

can benefit from compensation for technical unemployment according to GEO no. 30/2020.

CLARIFICATION:

Employers that reduce their activity as a result of the effects of the epidemic and do not have the financial capacity to pay all the salaries of their employees, can benefit from the payment of compensation based on a declaration attesting a 25% reduction of their revenues - they do not need an **EC**!

Conclusions

Cases of use of ECs are limited

ECs are not FMCs

We expect to have a regulation soon giving clarifications on the conditions for obtaining an EC.



Q&A





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Coronavirus – COVID – 19 impact of the crisis on court disputes

Provisions of Presidential Decree No. 195/16 March 2020 regarding ongoing court disputes:

1. **Only court disputes which present critical urgency will be trialed during the ongoing state of emergency.**
2. **CSM Decision No. 257/17 March 2020 states that the following court disputes may be trialed during the ongoing state of emergency; the Management Colleges of the Courts of Appeal have the prerogative to draft a list of such trials:**
 - Court disputes for which suspension would cause the plaintiff immediate and significant damage which may not be repaired in the future or such repair in the future would be difficult.

For example: requests of injunction, suspension of foreclosure procedures; suspension of the enforcement of a fiscal – administrative measure; lifting of judicial seizure, imposing judicial seizure; procedures relating to minors; other court cases which fulfill the conditions mentioned in letter a) above;
 - Court disputes generated by the applicability of the measures taken through Presidential Decree No. 195/2020, including those relating to the public tender procedure.
3. **During the state of emergency, the time limits for the statute of limitations or time-barred actions will not begin to start and if such time limits were ongoing, they will be suspended until the state of emergency ceases:**
 - In the case of the time limits for the statute of limitations, after the state of emergency ceases, these will not fall sooner than 6 months/one month after the date that the state of emergency ceases,
 - In the case of the time limits for time-barred action, the time-barred term will not be due sooner than 5 days after the date that the state of emergency ceases.

Provisions of Presidential Decree nr. 195/16.03.2020 regarding ongoing litigations:

4. In relation to the judicial terms to file the appeal, the Presidential Decree provides that these terms will be interrupted and new terms will start after the state of emergency state ceases.
5. All of these provisions are in favor of the persons who are the object of such time limits but any of these persons may choose to file the requests anyway during the period of suspension or interruption of time limits, waiving the benefit provided by the Presidential Decree.
6. Can new court disputes be registered during this period? The answer is positive; new court disputes may be registered with courts of law during this period, even if such disputes are not of critical urgency, but such new court disputes will not be processed by the courts until the state of emergency ceases according to CSM Decision No. 257/17.03.2020 which provides that during the state of emergency, court disputes will not be processed and verified.
7. In relation to other court disputes which are pending trial, the Presidential Decree provides a suspension by law of such court disputes until the state of emergency ceases and, afterwards, in such court disputes the trial will begin within 10 days of the date the state of emergency ceases.
8. The civil foreclosure procedure will continue during the state of emergency, but the time limits for challenging the foreclosure measures will not begin to elapse or will be suspended, also taking into consideration point 5 above.



Q&A





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Amendment to the IMM INVEST Romania Initiative

OUG 29 – Amendment to the IMM INVEST Romania Initiative

	Financing details	Value
SMEs	Guarantees for investment loans and/or one or more working capital credit lines	Maximum 80% of the financed value
	Guarantees for loans / credit lines for working capital financing	Maximum the average expenses related to the working capital in the last two fiscal years, but no more than RON 5 mn
	Guarantees for investment loans	Maximum RON 10 mn
	The maximum cumulative amount of state guaranteed financing	Maximum RON 10 mn
Micro or small businesses	Guarantees for loans / credit lines for up to 90% working capital financing	Maximum 90% of the financed value
	The maximum cumulative amount of state guaranteed financing	Maximum the average expenses related to the working capital in the last two fiscal years, but no more than RON 500,000 for micro businesses or RON 1 mn for small businesses

- 100% of the interest will be subsidized by the Ministry of Public Finance. The interest will be subsidized from the disbursement date of the loans until 31 March 2021. The subsidized interest will be maintained during 2021-2022 only if the economic growth estimated by the National Commission for Strategy and Prognosis for these years will be below the level registered in 2020.
- The maximum period for investment loans is 120 months, while the maximum period for working capital financing is 36 months, with an extra 36 months to be considered.

Sources of finance

Type	Provider	Considerations in current environment	
Debt	Banks	<ul style="list-style-type: none"> Focus on short & medium term Focus on existing exposure 	<ul style="list-style-type: none"> Collaterals valuation Strict covenants
	Institutional investors (EBRD, etc)	<ul style="list-style-type: none"> Long-term strategic approach Interested in taking equity positions 	<ul style="list-style-type: none"> Dedicated financing programs for existing clients
Mezzanine Finance	Mezzanine funds	<ul style="list-style-type: none"> Minimum collateral Ability to move fast 	<ul style="list-style-type: none"> Flexible debt & equity arrangements
Equity	Private equities	<ul style="list-style-type: none"> Long term view Ability to move fast 	<ul style="list-style-type: none"> Minority or majority stake Looking for equity increase
	Mergers	<ul style="list-style-type: none"> SMEs have lower breakeven Shared pool of resources 	<ul style="list-style-type: none"> Reduced indirect cost base Alternative supply chain sources



Q&A





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