



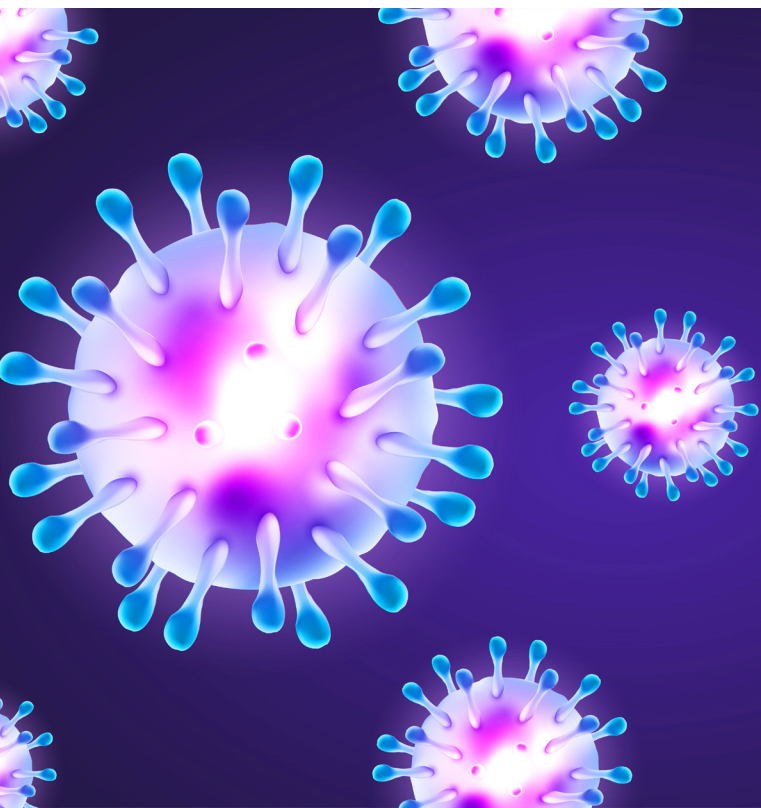
Business Continuity Planning

2019 novel coronavirus

March 2020

www.kpmg.ro

Foreword



This document is a guide on business continuity planning for KPMG in Romania & Moldova, to help the firm deal with the coronavirus (2019-nCoV) outbreak.

This guide should be read in conjunction with the latest relevant advisories issued by the Ministry of Health and other government agencies in Romania and Moldova.

The spread of COVID-19 and the significant escalation through Europe justifies contingency planning within our organization.

We need to focus on implementing measures to minimize disruption to our operations and support the wellbeing of our people. Even though there are many organizations which already have a business continuity plan in place, in the context of COVID-19, business continuance is the objective – making the safety of our people the first priority.

Task Force Management Team

Ramona Jurubita
Country Managing Partner
rjurubita@kpmg.com

Cezar Furtuna
Partner
cfurtuna@kpmg.com

Rene Schob
Partner
rschoeb@kpmg.com

Richard Perrin
Partner
rperrin@kpmg.com

Gabriel Tanase
Partner & CIO
mtanase@kpmg.com

Maria Stancu
Director Marketing
mstancu@kpmg.com

Antonela Ghinda
CFO & COO
aghinda@kpmg.com

Simona Podgoreanu
Director HR
spodgoreanu@kpmg.com

Task Force Manager

Maria Pop
HR Specialist
mpop@kpmg.com

Please refer to the above contact details if you have any questions on the matters highlighted in this guide.

Introduction

The objective of this guide is to ensure the business continuity of KPMG in Romania & Moldova in response to the novel corona virus (nCoV).

It covers the following key business operational risks:

- a. Human resources and communication (internal and external)
- b. Processes and business functions
- c. Client service
- d. Communications, both internal and external

This guide helps us with the following:

- a. To minimise the health risk to employees
- b. To minimise the risk of premises becoming a node of transmission
- c. To ensure plans are in place should employees be quarantined or infected
- d. To ensure alternative arrangements so that business operations can continue

KPMG in Romania& Moldova nominated a “**task force management team**” which will focus on identifying critical business functions and critical employee groups.

The “task force management team” will address certain key questions:

- Where are my employees? Are they safe?
- Can they operate effectively from their current location?
- Do we have the necessary remote working infrastructure, policies and mechanisms to be compliant?
- What actions do we need to take to protect business and cashflow

On the other hand, the business continuity plan should focus on:

1. Human resources and communication (internal and external)

- Are the employees familiar with the business continuity plans and how can we, as an organization, ensure they comply with it during this period?
- What's the possible impact of employees' absences?
- Encourage flexible work arrangements? – Teleworking, work-from home?
- Limit travelling abroad?
- Who communicates to disseminate the information within the organization and customers?

2. Processes and business function

- Do we need to quantify the financial management implications due to COVID-19?
- What are the critical functions and categories of employees for the organization?
- Do we have reliable systems which allow flexible work arrangements?











3. Client service

- Do we need to consider the circumstances under which we might need to suspend operations due to COVID-19?
- To what extent are our customers dependent on our business?
- Do we need to limit in-person meetings?

4. Communications, both internal and external

- Engage with Partners and staff regularly on the subject and keep them closely informed.
- Provide very specific personal health and safety instructions for all staff; employees should have a clear understanding of their roles and responsibilities before the virus outbreak occurs. For example, employees are informed of the business continuity plans (BCP) measures that will impact them and be kept updated on the policies and progress on the measures to be implemented by the company in the event of a virus outbreak.
- We will identify the relevant stakeholders such as suppliers, service providers and customers, and key messages will be sent for each stakeholder group
- Digital marketing capabilities and CRM need to be ready to allow staying in touch with clients. Expect the majority of in-person events to be cancelled

Roles and responsibilities of the Task Force Manager

- 01  Actively monitor development of the virus outbreak and work with the Task Force Management Team to disseminate messages to employees with clear instructions when measures need to be activated
- 02  Educate employees on the latest available information on the virus. Brief them on the need for infection control measures and the preventive procedures that have been set in place. Educate employees on the different types of thermometers, such as oral and ear thermometer, and the proper way of using them;
- 03  Collate updated contact information of all employees, i.e. home address/home telephone number/ mobile phone number. Make sure all employees have contact numbers of the Task Force Manager. Employees are to contact the Task Force Manager if they are admitted to hospital with suspected infections for contact tracing purposes
- 04  Ensure that employees who have travelled to affected areas are quarantined for 14 days. Check on employee's health by phone or email during his/her absence from work
- 05  Brief employees on personal hygiene measures:
 - Do not spit on the floor/ in the garbage can
 - Wash hands
 - Regularly and thoroughly with soap and water
 - Before and after preparing food
 - After going to the toilet
 - Before and after eating
 - After coughing and sneezing
 - After removing personal protective equipment like mask and disposable gloves
 - Sneezing and coughing should be done onto tissue paper which should be carefully disposed of.
 - Avoid sharing of cups, cutlery, etc.
 - Avoid physical contact such as shaking hands
- 06  Put up notices in washrooms on proper hand washing techniques
- 07  Ensure common areas e.g. pantries, washrooms, meeting rooms are disinfected daily.
- 08  Liaise with cleaning employees/contractors on this
- 09  Designate a room/area in the office with nearby toilet facilities as the isolation room/area for the employee(s) with fever to use. Identify the isolation route (a route that is not commonly used by employees/visitors) that leads to an area where the employees with fever can be brought to the flu clinic/hospital
- 10  Identify hospital/clinics that employees with fever can be brought to

Personal hygiene awareness

1. Cover your mouth when coughing or sneezing
2. Maintain good indoor ventilation
3. Avoid sharing food, crockery, utensils and other personal hygiene items
4. Avoid physical contact such as shaking hands and avoid touching your face or rubbing your eyes
5. Maintain good personal hygiene, including hand washing with soap and water, or the use of alcohol-based hand rubs
6. Proper hand washing requires soap and water. The constant rubbing action helps soap break down the grease and dirt that carry most germs. Washing your hands for at least 15 to 30 seconds with soap and water does not just make your hands smell fresh but also reduces germ count by up to 99%
7. Follow these 8 simple steps to keep your hands clean:
 - a. *Palm to palm*
 - b. *Between fingers*
 - c. *Back of hands*
 - d. *Base of thumbs*
 - e. *Back of fingers*
 - f. *Fingernails*
 - g. *Wrists*
 - h. *Rinse and wipe dry*



Stay healthy while travelling!



Example of Health Screening Form for Visitors

Dear Sir / Madam,

To prevent the spread of novel coronavirus (nCoV) in our community and reduce the risk of exposure to our staff and visitors, we are conducting a simple questionnaire. Your participation is important to help us take precautionary measures to protect you and everyone in this building.

Thank you for your time.

Visitor Name

Personal contact number

Visit purpose / department to visit

Self-declaration Statement by visitors*

1. If you have the following symptom(s), please tick the relevant box(es):

☐

Fever

☐

Dry cough

☐

Body aches

☐

Headaches

☐

Sore throat

☐

Runny nose

☐

Tiredness

☐

Shortness of breath

☐

Others similar symptoms

2. Have you been in contact with a confirmed novel coronavirus (nCoV) patient in the past 14 days?

☐

YES

☐

NO

3. Have you been to mainland China or affected countries** in the past 14 days?

☐

YES

☐

NO

If yes, please indicate the affected country(s)

Signature (visitor)

.....

Date

* Please Data Privacy Note on the back.

** By "affected countries" we mean the countries listed by the World Health Organization where coronavirus cases were reported. To check this information you could use the following link: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>

Example of Health Screening Form for Visitors

DATA PRIVACY NOTICE

DATA CONTROLLER

The personal data will be collected by KPMG entities and affiliates (hereinafter referred to as "KPMG") as described in the Privacy Policy published on the website <https://home.kpmg/ro/en/home.html>.

PURPOSES AND LEGAL BASIS

We collect the information requested in this form for the prevention and control against the outbreak of the new coronavirus (Covid-19) and for implementing the necessary measures in order to protect anyone who accesses our premises from exposure in the workplace.

The legal basis for this processing activity consists of: (1) protection of the vital interests of the data subject or of another natural person, according to art. 9 par. 2 letter i) of Regulation (EU) 2016/679 corroborated with 9 par. 3. and (2) the Romanian Labour Code and the legislation on safety and health at work.

DISCLOSURE OF DATA

Our policy is not to disclose personal data to third parties. However, depending on the evolution of the coronavirus outbreak, we may need to share your data to public authorities or medical institutions to the extent that such obligations will be imposed to us by official documents or by law.

DATA TRANSFER

As a general rule, your data will not be transferred outside the European Union / European Economic Area (EEA).

RETENTION PERIOD

Generally, personal data collected will be stored for the period necessary to fulfill the purposes set out above, in safety, in accordance with our internal retention and data security policies. Upon fulfillment of the purpose all collected personal data collected for this purpose shall be destroyed.

RIGHTS OF DATA SUBJECTS

To the extent that these rights are compatible with the processing activities described in this information notice, you have the right to request access to, rectification or erasure of personal data, restriction of processing or object to processing as well as the right to portability.

You also have the right to file a complaint with the National Supervisory Authority for Personal Data Processing (www.dataprotection.ro).

For any information regarding the protection of the Personal Data you may contact us using the e-mail address: dataprotection-office@kpmg.com.

Notification Form

Name:	Personal contact number:
Department	Worksite:
Job Title:	
Date and Time of recording:	

	Self-declaration Statement*												
	<p>1 If you have the following symptom(s), please tick the relevant box(es)</p> <table border="0"> <tr> <td><input type="checkbox"/> Fever</td> <td><input type="checkbox"/> Dry cough</td> <td><input type="checkbox"/> Body aches</td> <td><input type="checkbox"/> Headaches</td> </tr> <tr> <td><input type="checkbox"/> Sore throat</td> <td><input type="checkbox"/> Runny nose</td> <td><input type="checkbox"/> Tiredness</td> <td><input type="checkbox"/> Shortness of breath</td> </tr> <tr> <td colspan="4"><input type="checkbox"/> Other similar symptoms _____</td> </tr> </table>	<input type="checkbox"/> Fever	<input type="checkbox"/> Dry cough	<input type="checkbox"/> Body aches	<input type="checkbox"/> Headaches	<input type="checkbox"/> Sore throat	<input type="checkbox"/> Runny nose	<input type="checkbox"/> Tiredness	<input type="checkbox"/> Shortness of breath	<input type="checkbox"/> Other similar symptoms _____			
<input type="checkbox"/> Fever	<input type="checkbox"/> Dry cough	<input type="checkbox"/> Body aches	<input type="checkbox"/> Headaches										
<input type="checkbox"/> Sore throat	<input type="checkbox"/> Runny nose	<input type="checkbox"/> Tiredness	<input type="checkbox"/> Shortness of breath										
<input type="checkbox"/> Other similar symptoms _____													
	<p>2. Date and Time of fever onset:</p> <p>Travel History over the last 14 days:</p> <p>Countries visited:</p> <p>Other useful information concerning your potential exposure to coronavirus (COVID-19):</p> <p>_____.</p> <p>I declare also that I am not aware of any other facts that could have potentially exposed me to a coronavirus infection.</p> <p>I give this Statement knowing that false are sanctioned in accordance with the law.</p>												

Signature: _____

Date: _____

*Please see on the back the Data Privacy Notice.

Notification Form

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Department:

[illegible]

- 37.5°C and above, but below 38°C, please seek immediate medical attention
- 38°C and above, please alert Task Force Manager immediately
- Please keep temperature log for the Task Force Manager's audit

Tips on Temperature Taking



When to take your temperature:

Wait for 30 minutes before temperature taking if you have just exercised, eaten, drank, showered or been outdoors.

How to take your temperature:

There are different ways of temperature taking for the different types of thermometers available

Glass thermometer

- Wash the thermometer bulb with soap and water before use
- Shake the thermometer a few times to bring the level of the mercury below 35°C
- Temperatures can be taken from the armpit or mouth

Armpit reading

Place the thermometer bulb under your armpit. Fold your arm across your chest to hold the thermometer in place. Remove the thermometer and read the temperature after 5 minutes

Oral reading

Place the thermometer bulb under your tongue. Close your mouth and do not talk or bite the thermometer. Remove the thermometer and read the temperature after 3 minutes

Wash the bulb of the thermometer with soap and water after use

Digital thermometer

Wash the area of the thermometer bulb with soap and water before use

Switch on the thermometer and wait until it is ready to register a reading

Temperatures can be taken from the armpit or mouth

Armpit reading

Place the thermometer bulb under your armpit. Fold your arm across your chest to hold the thermometer in place. The thermometer will beep to signal that the temperature display is ready for reading. Remove the thermometer and read the temperature

Oral reading

Place the thermometer bulb under your tongue. Close your mouth and do not talk or bite the thermometer. The thermometer will beep to signal that the temperature display is ready for reading. Remove the thermometer and read the temperature

Wash the thermometer bulb with soap and water after use

Ear (tympanic) thermometer

Place a new disposable cap over the probe

Switch on the thermometer

Pull the ear backwards and upwards to straighten the ear canal when the thermometer is ready to register a reading

Insert the thermometer's probe into the ear canal

Press the activation button and hold until a reading appears (some models may beep when it is ready for a reading)

Remove the thermometer and read the temperature

Discard cap after use (use a new cap for every temperature taking)

Remember:

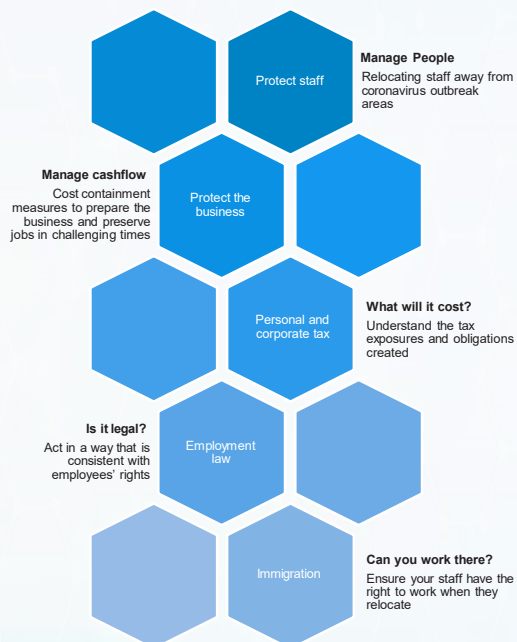
- It is important to read the manufacturer's instructions on the proper use of the thermometer
- When washing glass or digital thermometers, wash only the area in contact with the mouth/skin as the thermometer may not be waterproof
- Do not talk when taking an oral temperature or move about when taking an armpit temperature

Did you know...

- Temperatures taken at different parts of the body present different readings – those taken from the armpit are lower than readings from the mouth and ear
- For adults: if the armpit temperature is over 37°C
- the oral temperature is over 37.3°C or the ear temperature is over 37.7°C, you have a fever
- Children (below 12 years) have a fever if the armpit temperature is over 37.2°C, the oral temperature is over 37.5°C or the ear temperature is over 37.9°C
- The normal temperature for healthy adults and children ranges from 36.2°C to 37.2°C and the average normal temperature is taken as 37.0°C
- Children tend to have higher body temperatures due to higher metabolic rates
- Women who are ovulating may have temperatures that are 0.5°C higher due to hormonal changes in their bodies
- Adults over 65 years of age may have temperatures that are 0.3°C lower because of lower metabolic rates
- The times of the month and day also affect your temperature. The body is at its lowest temperature at 3am when it is at rest, and at its highest at 6pm after a busy day. To ensure accurate readings, it is advisable to take your temperature at the same time every day.



Protect staff and prepare the business



Meeting the coronavirus challenge

With the spread of the novel corona virus (nCoV) across Europe and even in Romania, businesses are reviewing, and implementing, their business continuity plans (BCP).

Business continuance is the objective – making the safety of your people the first priority. Once that is secured, thoughts need to turn to managing costs to protect the business and preserve jobs through challenging economic times ahead.

These actions impact staff and potentially create a complex web of compliance issues. Businesses will need the support of their human resource (HR) and finance teams to:

- Identify where their people are, and where they need to be to ensure safety and enable business continuity.
- Implement measures to manage future costs for the long term health of the business and job security.
- Address the implications for the business and the individuals involved across:
 - Personal tax, and employer reporting and withholding obligations
 - Employment law
 - Corporate tax
 - Immigration

Let's start with some key questions that Boards and Senior Management should be asking themselves and their teams.

Start the discussion

Big picture questions

- Where are my employees? Are they safe?
- Who is critical to business continuance? Can they operate effectively from their current location?
- Do we need an alternative work location? Do staff want to relocate?
- Do we have the necessary remote working infrastructure, policies and mechanisms to be compliant?
- What actions do we need to take to protect business and cashflow?

Changes to employment or remuneration terms

Employment law

- Are the changes proposed legally permitted? What are the employment law implications, and in which jurisdiction?
- Do you need to consult, agree with employees?
- What should be documented?

Tax / Immigration

- How will any benefits provided or one-off payments be taxed, in which location/s?
- In the event of workforce capacity reduction, are termination payments, or payments to incentivize part-time work, taxable / deductible?
- Is any deferral of employment payment effective for tax?
- Do the changes impact on the right to work (e.g., minimum income requirements for work permits, or notifying change of remuneration)

Managing cross-border workers

Immigration

- Does the person have the right to work in the new location?
- Do they have / need the necessary work permits?

Personal and employer taxes

- Will the individual be liable to personal tax in the new location?
- Does the employer have registration, reporting or withholding obligations?
- Could social security taxes apply?

Corporate tax

- Could the individual be creating a sufficient presence (e.g., permanent establishment (PE)) for business registration, corporate income tax or VAT?

Protecting the business

Changes to organization of work – Teleworking and work-from-home

Issue or circumstance

Employees' presence at working place represents an obligation that falls under the performance of their work. However, due to the changes of the current economic environment, nowadays work became more flexible in terms of employees' working place. Such change has as important role in an epidemic or other crisis that world faces.

Employment law

— Teleworking

As an alternative for employees to be physically present at the their working place for carrying out their job responsibilities, for the purpose of avoiding the Coronavirus current crisis and prevent any threat towards the employees' health, teleworking, if not already implemented at level of companies, may be taken into consideration. For the purpose of adopting such a method of work organization, certain conditions should be met, as follows:

- teleworking requires the consent of both parties of the employment relationship. Employees may not be constrained to give their consent for implementation of teleworking;
- employees' activity implies the use of information and communication technology;
- teleworking activity is expressly provided under the individual employment agreement (or addendum concluded to the individual employment agreement);
- the individual employment agreement (addendum, as the case may be) shall provide for certain mandatory conditions (e.g. the express provision that the employee is working by teleworking, the period and/or the day in which the employee performs the activity in other place than the work place organized by the employer, the place where teleworking is performed etc.);
- implementation of teleworking involves specific health and safety at work obligations for the employer, as well as for the employees.

— Work-from-home

As for the employees of whom work responsibilities do not imply the use of information and communication technology, work-from-home may be taken into consideration, provided that employees' activity allows to be rendered in such a manner.

Work-from-home as a method of work organization implies certain specific conditions, such as:

- similar to teleworking, implementation of work-from-home requires the consent of both parties of the employment relation;
- the individual employment agreement, or addendum to the individual employment agreement, as the case may be, should expressly provide that employees' activity is conducted from their domicile/residence;
- the addendum is subject to registration with the employees' electronic general register;
- work-from-home employees have the right to establish the daily working program by themselves.

Personal tax

Generally, no additional obligations (than the regular ones) will be triggered by teleworking / work-from-home activities.

Immigration

In case of foreigners, any changes to employment terms may need to be notified to the immigration authorities.

Unpaid leave

Issue or circumstance

One possible way of reducing costs during turbulent times is to put staff on unpaid leave. If used appropriately, employers can reduce costs while eliminating the need for termination and sourcing for talent once the business environment returns to normal.

Personal tax and social security

- Generally, unpaid leave should not have significant tax implications other than reducing taxable income and social contributions in line with the reduced remuneration.
- Unpaid leave may lead to non-insured periods for the individuals from a social security perspective

Immigration

- In case of foreigners, changes to employment terms might also need to be checked to ensure they do not need to be reported to the immigration authority or breach the conditions of issue of an exiting work permit.

Employment law

- Unpaid leave for turbulent times such as the current one is not expressly regulated by the Romanian legislation, but only unpaid leave for resolving personal matters. However, unpaid leave for the purpose of avoiding the current crisis, may only be taken if agreed by both employer and employee.
- Unpaid leave would trigger notification/registration requirements.

Quarantine medical leave

Issue or circumstance

With the purpose to prevent the sickness or to recover after a sickness, the employee may benefit by medical leave and indemnities for quarantine leave, under the special provisions of the Romanian legislation in place.

Personal tax and social contributions

- Generally, medical leave for quarantine should be exempted from part of social contributions due by employee and employer.

Employment law

- As the medical leave period is considered suspension period of the employment contract, according to the Law 53/2003, is important to mention that during this period the employee can not perform any work activities.

Legislation in place

- Medical leave certificate for quarantine is issued by the employee's Family Doctor based on the certificate provided by the Public Health Authority, as it is stipulated in the applicable legislation.
- The minimum period of insurance of the employee in order to benefit of the medical leave for quarantine is 6 months in the last 12 months previous to the month for which the medical leave is granted.
- The medical leave certificate may be issued retroactively, for the current and previous month for a total leave period up to 90 days.
- The medical leave indemnity for quarantine leave is 75%, applied to the average incomes of the employee for the previous 6 months, as stipulated in the applicable legislation.

Deferral of employment and/or payments

Issue or circumstance

During turbulent times, employers generally stop expanding their workforce. However, in extreme cases, employers might take action to defer offers, or even payment of wages and other remuneration.

Personal tax

- Generally deferral of employment or remuneration should also defer the tax obligations. However, if the parties do not agree to defer the salary, any payment will trigger social contributions and personal tax.

Employment law

- Most offer letters contain a commencement date, once signed by both parties, it will be extremely difficult for the employer to defer the commencement of employment. Unilaterally imposing a deferral may result in a claim by the employee.
- Late payment of wages is a violation of the labor laws.
- Employees may potentially agree to late payment of wages, but it does not absolve the liability of the employer.

Immigration

In case of foreigners, any changes to employment terms may need to be notified to the immigration authorities.

Downturn of business activities

Issue or circumstance

The results of turbulent times may lead to a downturn of business and the companies may decide to stop expanding their activities.

Personal tax

- Generally, the allowance paid during downturn of business activities triggers social contributions and personal tax.

Immigration

In case of foreigners, any changes to employment terms may need to be notified to the immigration authorities.

Employment law

- The Romanian legislation provides that in case of downturn of business generated by economical, technological, structural or other similar reasons the employment contracts may be suspended.
- In the case of temporary reduction of the activity, for periods exceeding 30 working days, companies have the possibility to reduce the work time from 5 days to 4 days per week, with the corresponding reduction of the salary, however, consultations with the employees representatives need to be made
- This can be applied only until the reasons which caused the reduction of the program have been resolved.
- During the business downturn, employees benefit from an allowance, paid from the salary fund, which cannot be less than 75% of their basic salary.
- Reduction of work time would trigger notification/registration requirements.

Layoffs and termination of employment

Issue or circumstance

As a last resort in difficult economic times, employers may consider layoffs and termination of employees. In addition to the operational challenges this may present, both at the time and in the future when circumstances improve, this can have employment law, tax and immigration implications.

Personal tax

- The tax treatment of termination payments will vary from jurisdiction to jurisdiction and depend on the nature of the payment. Generally, regular termination payment will follow the regular tax and social security treatment.

Immigration

- In case of foreigners, employers may be required, or recommended, to notify the local immigration authority of the termination of employment.
- Termination of employment can also impact on the employee and their family's right to remain in the location.

Employment law

- An epidemic or other factors leading to downturn of business is not a legally recognized reason for layoffs and termination. Mass layoffs require prior mandatory procedure to be followed.
- As a rule terminations in Romania must be with cause. Wrongly dismissing an employee may result in the employee being reinstated and payment of damages (equal to the indexed, increased and updated salary rights to which the employee would have been entitled to from the moment of dismissal up to effective reinstatement or date of definitive court decision, if reinstatement is not required).
- End of employment notifications and reporting needs to be considered.

Protecting staff



Relocating staff to work

Issue or circumstance

Staff may wish to relocate from Romania or from other affected countries to Romania, or the business may wish to move business critical employees to a business continuance centre in a different jurisdiction. It is important to consider and document whether the "relocation" is a secondment to the local entity or working remotely, as the implications are likely to be very different.

Personal tax and social security considerations

An individual will likely have a tax liability in the location in which they are working, even if their home or work base is elsewhere.

- Is there any domestic exemption for short visits?
- Is there a double tax agreement (DTA) between the location and the employee's place of tax residence?
- Are there any registration, reporting or withholding obligations in the location of work?
- Does the individual and/or employer have any reporting or withholding obligations from a social security perspective?

Watch points

- Does a DTA apply and could the individuals benefit from DTA exemptions?
- Recharging remuneration costs to an entity in the new location may lead to disqualifying the individual from the DTA exemptions.
- Special consideration will be needed for people who might be, or become, dual tax resident.
- Presence over 183 days is a common threshold for tax residence, and a personal tax liability due to the loss of DTA relief.
 - Exceeding 183 days should be assumed to cause a tax liability until reviewed and confirmed otherwise.
 - Being under the 183-day threshold does not offer comfort that there is no tax liability.
- Some jurisdictions apply an economic employer concept and this can prevent exemptions applying, particularly where a local entity benefits from the employment.
- There is a natural trade off between reducing the personal tax risk and causing a greater PE risk (see Corporate Tax considerations).

Relocating staff to work

Corporate tax considerations

An individual operating in another country may trigger tax obligations for the company.

- Does the individual/s presence or activities reach the level at which a corporate tax reporting obligation could arise (e.g., carrying on business in the jurisdiction). What are the local rules to determine this?
- Does a DTA apply, and provide relief from tax in that location?
- A presence in a location, depending on the activities undertaken, might trigger business registration or registration for other taxes, such as VAT/GST.

Immigration considerations

- Employees carrying on their employment in a location need to have the right to work there. This may come from personal status, e.g., if they are a national/citizen, otherwise a work permit may be required.

Employment law

- Some jurisdictions do not accept local employment laws from being contracted out. As such, when working in certain jurisdictions, certain aspects of the employment may be governed by the laws of that location, regardless of the law governing the employment agreement.
- Consideration needs to be given to any local law issues when working in the overseas jurisdiction.

Watch points

- Presence over 183 days increases the likelihood of having a PE. In some circumstances there is an explicit threshold; in others, it may just be a guideline as to the "degree of permanence" of the place of business.
- Discipline should be put in place to keep track of high risk activities such as habitually signing contracts, or rendering services for more than 183 days.
- Documentation of the role, responsibilities and the entity that enjoys the benefit of the services being performed may help to mitigate the risk.
- If a work permit is required, there may be a period of several weeks before the individual can start to work. A contingency plan may be required in the interim.

Changes to secondment arrangements

Issue or circumstance

Secondment arrangements are often implemented to cater for temporary assignments. In an epidemic or other crisis, employers or secondees may wish to make changes to the secondment arrangement to ensure the health and safety of the secondee.

Personal tax and social security

- End of secondment payments, and reimbursement of costs, may be triggered. The tax implications and reporting requirements of these should be determined if not already known.
- Repatriation may trigger implications from a social security perspective – would the individuals continue to be insured? Which legislation would apply – European Regulations or bilateral social security agreements?

Immigration

- Leaving employment in a jurisdiction may trigger cancellation or de-registration requirements. If a foreigner is leaving Romania permanently, deregistration is required.

Employment law

- If companies have cross-border secondees, an epidemic or other crisis, such as the present nCoV, may represent a ground for suspension or termination of the secondment arrangement. As regards the suspension or termination conditions (e.g. rental and repatriation costs etc.), if such aspects are not regulated under the secondment agreement, the parties should seek to negotiate and resolve these issues in the form of a settlement agreement.

Appendices



Useful links and law references

Legislation regarding teleworking – Law 81/2018

Legislation regarding work-from-home – Law 53/2003 (article 108)

Legislation regarding unpaid leaves – Law 53/2003 (articles 49 – 53)

Legislation regarding medical leave during quarantine period - G.E.O. 158/2005 regarding the medical leaves and the Norms 15/1311/2018

Jurisdictions with DTAs with Romania - https://static.anaf.ro/static/10/Anaf/AsistentaContribuabili_r/Conventii/Conventii.htm

Jurisdictions with bilateral social security agreements with Romania - <http://www.mmuncii.ro/j33/index.php/ro/2014-domenii/protectie-sociala/securitate-sociala-pentru-lucratorii-migranti/2121-acorduri-bilaterale-in-domeniul-securitatii-sociale1>

Where to find information on countries with high risk of 2019-nCoV – Ministry of Foreign Affairs website - <https://www.mae.ro/taxonomy/term/3178>

Contact us

KPMG in Romania

Bucharest Office

Victoria Business Park,
Bucharest - Ploiești Road
no. 69-71, Sector 1, Bucharest
013685, Romania
P.O. Box 18-191
T: +40 (372) 377 800
F: +40 (372) 377 700
E: kpmgro@kpmg.ro

www.kpmg.ro

Cluj Napoca Office

Vivido Business Center
Alexandru Vaida Voievod street,
no 16, 400592, Cluj, Romania
T: +40 (372) 377 900
F: +40 (753) 333 800
E: kpmgro@kpmg.ro

Constanta Office

Mamaia blv. no 208,
4th floor, Constanta,
900540, Romania
T: +40 (756) 070 044
F: +40 (752) 710 044
E: kpmgro@kpmg.ro

Iasi Office

Ideo Business Center,
Păcurari Road no. 138,
Ground Floor
Iasi, 700521, Romania
T: +40 (756) 070 048
F: +40 (752) 710 048
E: kpmgro@kpmg.ro

Timisoara Office

ISHO Offices,
Take Ionescu blv. no. 50,
Building A, 7th floor, 300124
Timis, Romania
T: +40 372 377 999
F: +40 372 377 977
E: kpmgro@kpmg.ro

KPMG in Moldova

Chisinau Office

171/1 Stefan cel Mare blv.
8th floor, MD-2004, Chisinau
Republic of Moldova
T: + 373 (22) 580 580
F: + 373 (22) 540 499
E: kpmg@kpmg.md

www.kpmg.md

kpmg.com/socialmedia



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