



COVID-19, State Subsidies for Rent, Slovak Accounting Legislation

In connection with the COVID-19 pandemic, the National Council approved Act No. 155/2020 Coll. of 9 June 2020 amending Act No. 71/2013 Coll. on granting subsidies within the competence of the Economy Ministry as amended and on amendments to Act No. 62/2020 Coll. on certain extraordinary measures in relation to the spread of the dangerous contagious human disease COVID-19 and in the judiciary and amending certain laws as amended by Act 92/2020 Coll. The Act entered into force on the date of promulgation, i.e. on 17 June 2020 (hereinafter referred to as the "Act").

This Act was later amended by Act No. 349/2020 Coll. of 1 December 2020, which entered into force on the date of promulgation, i.e. on 9 December 2020.

The Act deals with granting a subsidy for the payment of rent for the period of difficulty of use (see below).

Subject matter of the lease (Article 13c (2)):

- Room or part thereof or a set of rooms whose designated purpose is other than dwelling based on a decision of the Construction Office and where the lessee sells goods or provides services to end consumers, including associated service and storage areas
- Marketplace stall.

Basic conditions (Article 13c (1), (3), (5), (6), (7)):

- The lessee's right to use the subject matter of the lease at the latest:
 - from 1 February, in respect of the first wave
 - from 1 August 2020, in respect of the second wave (after the amendment).
- Change in the lease agreement (or a similar agreement) made:
 - after 12 March 2020, in respect of the first wave
 - after 31 August 2020, in respect of the second wave (after the amendment)

is not considered for the purpose of a subsidy.

- Rent is paid in monetary form.
- An application for a subsidy should be filed by the lessor on behalf of the lessee and on the lessor's own account.
- Entitlement to a subsidy arises for the **lessee**.
- A subsidy is directly credited to the account of the lessor.
- An agreement on a subsidy is also considered an agreement on a price discount.

- A subsidy may be granted to the lessee in an amount equal to the rent concession granted on the basis of an agreement between the lessor and the lessee, up to 50% of rent for the period of difficulty of use (the same applies to public institutions and other legal entities established by law).
- If the lessor is an entity managing state-owned assets, rent will be reduced to one-half.
- Rent does not include other possible liabilities, such as payments for supplies usually associated with the lease, or a turnover component.
- If the amount of payment for supplies usually associated with the lease cannot be separated from the amount of rent, it is assumed that these payments amount to 5% of the rent.
- Value added tax is not considered an eligible expense of a taxpayer if the taxpayer may claim a value added tax (VAT) deduction.
- The lessee must reimburse the lessor for VAT.
- Entitlement to a subsidy arises only with respect to the number of days of difficulty of use.

Other conditions:

- The lessee should pay the lessor outstanding rent for the period of difficulty of use reduced by:
 - the rent concession granted in accordance with the above, and
 - the amount of the granted subsidy for rent remitted to the lessor (Article 13c (16)).
- The lessee may pay outstanding rent in a maximum of 48 equal monthly installments due on the 15th day of the relevant calendar month, starting on the 15th day of the calendar month following the calendar month in which the emergency situation related to COVID-19 ends, but no later than from 1 April 2021 (after the amendment)¹, unless the lessor and the lessee agree otherwise (Article 13c (16)).
- The lessor does not have the right to unilaterally increase the rent during the payment of installments unless this right was agreed upon:
 - prior to 1 February 2020, in respect of the first wave,
 - prior to 1 August 2020, in respect of the second wave (after the amendment), (Article 13 c (16)).
- If the lessee has paid rent for the entire period of difficulty of use or part thereof to the lessor, a subsidy for rent may be granted for a period of identical duration as the period of difficulty of use, namely in the amount of the rent concession granted on the basis of an agreement between the lessor and the lessee, up to a maximum of 50% of the rent (Article 13c (17)).

What if no agreement is made between the lessor and the lessee on granting a concession (Article 13c (18)):

- The lessee may pay the lessor all of the outstanding rent for the period of difficulty of use in a maximum of 48 equal monthly installments due on the 15th day of the relevant calendar month, starting on the 15th day of the calendar month following the calendar month in which the emergency situation related to COVID-19 ends, but no later than from 1 April 2021 (after the amendment)¹, unless the lessor and the lessee agree on different payment terms.

¹ According to the Explanatory Statement, this regulates the condition that has a decisive influence on the relationship between the lessor and the lessee. According to Article 13c (16) of the Act, the commencement of payment of the outstanding amount of rent in installments is tied to the month following the month in which the emergency situation ends. If the lessor and the lessee have agreed on a rent concession and a subsidy has been claimed, it has been proposed that it be expressly provided that the payment of the outstanding amount of rent shall begin no later than from 1 April 2021 even if the emergency situation continued at that time. If the lessor and the lessee have not agreed on a concession (paragraph 18), it has also been provided that the payment of rent shall begin no later than from 1 April 2021 even if the emergency situation continued at that time.

What if the lessee has already paid rent (Article 13c (8)):

- The lessee may pay rent for a period of identical duration as the period of difficulty of use in a maximum of 48 equal monthly installments due on the 15th day of the relevant calendar month, starting on the 15th day of the calendar month following the calendar month in which the emergency situation related to COVID-19 ends, but no later than from 1 April 2021 (after the amendment)¹, unless the lessor and the lessee agree on different payment terms.
- The lessor does not have the right to unilaterally increase the rent during the payment of installments unless this right was agreed upon:
 - prior to 1 February 2020, in respect of the first wave
 - prior to 1 August 2020, in respect of the second wave (after the amendment).

The lessee must meet the following conditions (for example, Article 13c (8), (11), (12)):

- The lessee has concluded an agreement with the lessor;
- The lessee is not subject to bankruptcy proceedings, is not in a state of bankruptcy or restructuring, nor a bankruptcy petition against the lessee has been dismissed due to a lack of assets;
- The lessee is not subject to a legally valid prohibition of receiving subsidies or subventions or a prohibition of receiving aid and support from European Union funds (the latter condition is relevant to legal entities only);
- The lessee has not been requested to return aid based on a decision of the European Commission finding that aid provided is unlawful and incompatible with the internal market;
- The lessee meets the conditions set out in the scheme;
- The lessee has settled his or her financial relations with the state budget;
- There is no writ of execution against the lessee;
- The lessee did not breach the prohibition of illegal employment according to special legislation over the past three years;
- The lessee has no record of outstanding payments of social insurance contributions and the lessee's insurance company has no record of overdue receivables from the lessee according to special legislation.

Subsidy for the period

Period of difficulty of use – the period during which the use was made impossible because the subject matter of the lease had to be closed or because teaching in schools and school establishments was interrupted or the period during which the use was substantially restricted by a ban on public entry into the subject matter of the lease.

A summary of periods of difficulty of use during the first and the second wave of the pandemic according to the adopted measures as prepared by the Economy Ministry as of 17 December 2020 can be found at <https://najmy.mhsr.sk/obdobie.html>.

Transitional provisions on the amendment to the Act, amendments effective from the date of promulgation (Article 13d)

Relations between a lessor and a lessee concerning outstanding rent for a period of difficulty of use for which a subsidy was granted prior to the date of promulgation of this Act shall be subject to previous legislation. Relations between a lessor and a lessee concerning outstanding rent for a period of difficulty of use where the lessor and the lessee did not agree on a rent concession prior to the date of promulgation to this Act shall be subject to previous legislation.

This means that relations between a lessor and a lessee concerning outstanding rent for a period of difficulty of use for which a subsidy was granted until 30 November 2020, as well as relations between a lessor and a lessee concerning outstanding rent for a period of difficulty of use where the lessor and the lessee did not agree on a rent concession until 30 November 2020, will be subject to legislation effective until 30 November 2020.

Accounting

The accounting treatment is stated in the Decree of the Finance Ministry of the Slovak Republic No. 23054/2002-92 of 16 December 2002 laying down details of the accounting procedures and the framework for the chart of accounts for entrepreneurs maintaining accounts under the system of double entry bookkeeping as amended that was amended by Decree of the Finance Ministry of the Slovak Republic No. **MF/011805/2020-74** of 9 December 2020, namely in Article 52a (8):

“Based on a notification of subsidy approval^{32aa)}, the lessee shall debit the allocated subsidy for rent to account 346 – Subsidies from state budget with a corresponding credit entry in account 648 – Other operating income in relation to the substance and timing of rental costs incurred. The amount in which the lessee waived the subsidy for rent for the benefit of the lessor shall be debited to account 321 – Suppliers with a corresponding credit entry in account 346 – Subsidies from state budget. The lessor shall credit the amount in which the lessee waived the subsidy for rent for the benefit of the lessor to the relevant receivable account with a corresponding debit entry in account 315 – Other receivables.”

^{32aa)} Article 13c of Act No. 71/2013 Coll. on granting subsidies within the competence of the Economy Ministry of the Slovak Republic as amended by Act No. 155/2020 Coll.



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