
Kaap Hoorn Coronavirus newsletter no. 6/2020
Outline of the Dutch support measures available to entrepreneurs

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Coronavirus: additional new measures for entrepreneurs

The government has taken additional measures to support entrepreneurs during the coronavirus crisis. For example, directors/major shareholders can reduce their customary salary further, the fixed budget under the work-related expenses scheme has been increased and the Contribution for Entrepreneurs in Sectors Affected by COVID-19 scheme (TOGS), which offers support of € 4,000, has been relaxed, as has the hour criterion for purposes of the self-employed person's allowance. In addition, companies have been given the option of already forming a 'coronavirus reserve' and the introduction of the 'DGA' (director/major shareholder) tax has been postponed. In this newsletter we also cover a number of other points that may be of interest to you.

Please note:

We are keen to ensure we provide up-to-date information. As we are writing, however, the Dutch Government is constantly announcing new additions or improvements to (new) schemes. The articles below are based on the information available as at 4.30 p.m. on Tuesday, 28 April.

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1. Six additional coronavirus measures for entrepreneurs

The government will once again be taking additional fiscal support measures to mitigate the negative impact of the coronavirus crisis for entrepreneurs in particular. The six measures in question were announced on Friday, 24 April.

Lower customary salary for directors/major shareholders

If you are a director/major shareholder, you are obliged to declare a 'customary salary' as the salary you receive from your company. In 2020 this customary salary would ordinarily have to be at least € 46,000. It can also be set at 75% of the salary for the most comparable position or at the level of the highest salary received by your company's employees, if one of them earns more than € 46,000. It had previously been decided that the customary salary could be set at a lower level as a result of the coronavirus crisis. Now it has been announced that the customary salary may be reduced in proportion to the drop in your turnover. The measure will be structured in a similar way to a comparable measure used to determine customary salaries during the credit crisis around 2009. A condition at that time was that a dividend could not be paid out instead of a customary salary. According to calculations by the government, the measure should result in an average benefit of € 6,200 per director/major shareholder.

Relaxation of hour criterion

Entrepreneurs who are subject to income tax are entitled to take advantage of all kinds of facilities, such as the self-employed person's allowance, to qualify for which you usually have to dedicate at least 1,225 hours a

year to your business. To prevent entrepreneurs from losing access to these facilities if their business has come to a standstill or has very low activity as a result of the coronavirus crisis, for the period from 1 March to 31 May 2020 the tax authorities will assume that they have dedicated at least 24 hours a week to their business, even if these hours have not actually been worked. This relaxation of the facility will also apply to seasonal businesses, e.g. in the catering sector. On average, according to government estimates, this will result in a benefit of € 1,800.

Fixed budget under work-related expenses scheme increased

Under the work-related expenses scheme allowances and benefits in kind can be granted to employees free of tax. The work-related expenses scheme has a fixed budget of 1.7% of the wage bill up to € 400,000 and 1.2% on the excess amount. The employer only pays 80% tax via the final levy if the allowances and benefits in kind granted during a year exceed this fixed budget. For 2020 it has been decided that the fixed budget for the first € 400,000 of the wage bill will be increased to 3%. In these difficult times this will enable employers to offer their employees additional untaxed remuneration, such as a gift voucher or bonus, without the employer becoming liable for the 80% final levy. Thanks to this increase, an employer will be able to allocate up to an additional € 5,200 in allowances and benefits in kind to the fixed budget.

Offset losses via ‘coronavirus reserve’

Companies that pay corporation tax on their profits, such as private limited companies (BVs), are being allowed to include an expected loss in their 2019 tax return this year (and therefore earlier than would normally be the case) by forming a ‘coronavirus reserve’. This is subject to the condition that this coronavirus reserve does not exceed the profit for 2019. According to government estimates, this means that, on average, a company will receive € 25,000 in 2020 instead of in 2021 as a result of refunds on provisional tax returns for 2019.

Postponement of Act on taxation of excessive loans received by shareholders from their own company

The legislative proposal relating to the taxation of excessive loans received by shareholders from their own company, commonly known as the ‘DGA’ (director/major shareholder) tax, is being postponed by a year until 1 January 2023. Under this proposal a director/major shareholder will be required to pay tax on debts to his or her own company that exceed € 500,000, leaving debts used to finance his or her own home out of consideration. The postponement means that directors/major shareholders will have an extra year, until 31 December 2023, to pay off debts to their company of more than € 500,000 and in this way avoid paying tax on them.

Deduction of mortgage interest not at risk if repayments temporarily suspended

For mortgages taken out with effect from 2013 the deduction of mortgage interest is subject to a repayment obligation. As a result of the coronavirus crisis, banks are now offering their customers the option of suspending their interest payment obligation and repayment obligation for a maximum period of six months. To prevent the right to deduct mortgage interest being lost as a result, the repayment obligation is being relaxed. This means that the rules are being relaxed in relation to catch-up repayments. It will be possible to spread these over the remaining term of the mortgage or agree on a separate repayment schedule.

2. Further relaxation of TOGS € 4,000 support scheme and BMKB scheme

The conditions that apply to loans under the government-guaranteed scheme for loans to SMEs (BMKB) and the one-off grant of € 4,000 under the Contribution for Entrepreneurs in Sectors Affected by COVID-19 scheme (TOGS) are being relaxed further. This was decided by the government on Tuesday, 28 April. By

relaxing the rules in this way, it will be possible to provide even better support to entrepreneurs who suffer losses as a result of the coronavirus crisis.

Expansion of BMKB scheme

Under the BMKB scheme the government guarantees loans to entrepreneurs, allowing banks to issue loans more quickly. The government has already increased the level of the guarantee to 90% for SMEs and 80% for larger companies in connection with the coronavirus crisis. The scheme will be expanded further and will also be applicable to bridging loans and overdraft facilities with a term of up to four years instead of two.

Lower threshold

In addition, it will be easier for entrepreneurs to access the BMKB, as an application can also now be assessed by means of a turnover test and not just on the basis of a detailed liquidity forecast. It is not yet clear what form this test will take.

TOGS scheme

The TOGS scheme is also being relaxed further. Under this scheme entrepreneurs in sectors that have been particularly affected by the crisis, such as catering, can receive a tax-free grant of € 4,000. Up to now this grant has been based on a company's principal activity, but is now also available if a registered secondary activity of an entrepreneur satisfies the conditions.

Conditions

An additional condition applies in such a case, however: based solely on the registered secondary activity, the entrepreneur must suffer a drop in turnover of at least € 4,000 over the period from 16 March 2020 to 15 June 2020 and must also have fixed costs of at least € 4,000 over that period.

3. NOW scheme expanded for groups

The Temporary Emergency Bridging Fund for Employment (NOW scheme) is being expanded for groups. Operating companies whose turnover drops by more than 20%, but are part of a group that does not meet this condition, can now apply under the NOW scheme, subject to certain conditions.

NOW scheme

Employers who experience a drop in turnover of at least 20% will have up to 90% of their payroll costs reimbursed via the NOW scheme. It no longer matters whether the drop in turnover can be attributed to the coronavirus crisis or other reasons, such as the PFAS and nitrogen problem. The drop in turnover is calculated by comparing 25% of the turnover for 2019 with the turnover generated from March to May 2020. However, employers can also take a period starting one or two months later as a basis for determining their drop in turnover.

Problem with calculating drop in turnover for groups

In the case of groups the turnover for the whole group is taken as a basis. One problem that results from this is that groups within which staff from one company cannot be deployed in other companies (or only to a limited extent) will in some cases not receive any compensation due to the decline in turnover being calculated on a per-group basis. This would be the case, for example, if one group company loses all of its turnover, but the drop in turnover for the group as a whole is less than 20%. This problem has now been resolved by the expansion of the NOW scheme.

Expansion

The expansion means that independent legal entities, e.g. private limited companies, within a group will from now on be able to apply under the NOW themselves. This is subject to the conditions outlined below.

Conditions

- No dividends or bonuses: groups with a company that takes advantage of the scheme must declare that they will not be paying out any dividends or bonuses for 2020 or buying back their own shares.
- No redundancies: the company in question must have an agreement with the trade union on job retention at the company. Companies with fewer than 20 employees can conclude an agreement with an employee representation body.
- No intra-group secondment operating company within the group: groups with an intra-group secondment operating company ('personeel-bv') must always take the drop in turnover at group level as a basis.
- Additional safeguards.

A number of additional safeguards are also being incorporated into the NOW scheme to prevent fraud. During the period over which the drop in turnover is measured no orders may be transferred from a company that is taking advantage of the NOW to another company within the group. In addition, changes in inventories will be allocated to turnover. These safeguards are currently being worked out in more detail.

When does it enter into force?

The amendment will be published as soon as possible. This will also indicate when the scheme will enter into force.

4. Lower wage bill during NOW? Be aware of retrospective correction!

What are the consequences under the NOW if your wage bill between March and May is lower compared with your wage bill in January this year? This can have a significant negative impact. Be aware of this, as in these times you will not want to find yourself having to pay back the subsidy you received under the NOW scheme retrospectively.

What amount has to be deducted if your wage bill is lower?

If you apply under the NOW scheme (the main condition is a drop in turnover of at least 20%), up to 90% of your payroll costs will be reimbursed by the government. It should be noted that there is a difference between your wage bill and your payroll costs. Payroll costs are approximated by adding the flat-rate percentage of 30% for additional employer's contributions to your wage bill.

Deduction

Regardless of the level of the subsidy awarded, 90% of the reduced wage bill is deducted retrospectively from the amount to be subsidised if the wage bill between March and May is lower than the wage bill in January. This means that for each euro by which the payroll costs are lower, the employer receives € 0.90 less in subsidy.

Example

An employer has an estimated drop in turnover of 50%. He therefore receives a subsidy of 90% on 50% of his wage bill. If his wage bill in January was € 1,000,000, this results in a total expected subsidy determined under the NOW of € 1,755,000. An advance is paid at a level of 80%: € 1,404,000.

Over the period from March to May the wage bill is € 600,000 lower. This results in the subsidy being reduced by € 702,000. The ultimate amount of the subsidy is therefore (€ 1,755,000 – € 702,000) = € 1,053,000. This means that the advance payment allocated was too high and a repayment has to be made.

5. In 2020 no adjustment of employer's unemployment insurance contribution in the event of overtime

If, after the end of a year, it becomes clear that an employee has exceeded his or her contractually agreed working hours by more than 30%, the unemployment insurance contribution must be adjusted with retroactive effect. As a result of the coronavirus crisis, it has been decided that, for 2020 only, this adjustment does not have to be made.

Contracted hours exceeded by more than 30%?

If the number of hours for which an employee receives a wage (paid hours) exceed the contractually agreed hours (contracted hours) by more than 30% in the payroll tax return for the calendar year concerned, an adjustment must be made from the low (2.94%) to the high (7.94%) unemployment insurance contribution. A different situation only applies if at least 35 hours a week have been agreed. In such a case the above rule does not apply and, within the limits set by the Working Hours Act, unlimited overtime may be worked without the employer being required to switch from the low to the high unemployment insurance contribution.

Change

This rule is now having unintended consequences in sectors that need employees to work a considerable amount of additional overtime as a result of the coronavirus crisis, such as healthcare. The Labour Foundation has therefore asked for the rule to be amended. The government has promised to change it temporarily, i.e. for 2020 only.

Generic measure

A targeted sectoral measure would be extremely onerous to implement. For this reason it has been decided that a generic exception covering all employers will apply for 2020 in relation to adjustment of the unemployment insurance contribution in the above situation. A generic solution also avoids any uncertainty with regard to who falls under the exception and who does not.

Please note:

In concrete terms this means that, for 2020, employers do not have to adjust the unemployment insurance contribution on the basis of the situation outlined above.

To make this possible, the Decree adopting an order in council implementing the Social Insurance (Funding) Act and a number of other Acts ('Besluit Wfsv') is being amended. The regular situation regarding adjustment of the contribution will take effect again on 1 January 2021.

6. Launch of bridging loan for start-ups and scale-ups

From 29 April 2020 start-ups and scale-ups can approach Regional Development Agencies (ROMs) for a bridging loan: the Coronavirus Bridging Loan ('Corona-Overbruggingslening' (COL)). This additional facility is needed, as such companies, being new customers, are having difficulty obtaining finance from banks due to the coronavirus crisis.

Existing schemes insufficient

Up to now, companies in the above category have largely been financed by means of equity, such as retained earnings, or venture capital. However, they have only been able to take advantage of the credit facilities made available to date as a result of the coronavirus crisis to a limited extent.

Contribution from shareholders expected

The value of the loans that the ROMs will provide will range from € 50,000 to € 2,000,000. For amounts above € 250,000 cofinancing of 25% is expected from shareholders or other investors.

3% interest

The interest rate on the loans is 3%. A premium of 2% per year is also paid in the case of loans above € 500,000. The loans have a term of three years, but can be repaid early without any penalty.

For loans of up to € 500,000 the aim is to process applications within four to nine working days. In the case of applications exceeding € 500,000 the aim is to come to a definitive decision within three working weeks.

Not for all sectors

Certain sectors are excluded from the scheme. These are the retail, catering and small business services sectors. Independent entrepreneurs also do not qualify for the credit facility. This is because such businesses can also approach an ordinary bank or Qredits for finance.

For more information see the [website of the Regional Development Agencies](#)

7. Wage expenses subsidy (LKS) will not be deducted from contribution under NOW

The contribution towards payroll costs that can be obtained via the NOW scheme does not have to be reduced by any wage expenses subsidy (LKS) that an employer may be receiving for employees with an occupational disability. This has been announced by Tamara van Ark, State Secretary of Social Affairs and Employment.

NOW scheme

Under the NOW scheme employers can get up to 90% of their payroll costs reimbursed by the government if their turnover drops by at least 20%. This scheme replaces the short-time working scheme and has been set up as a consequence of the coronavirus crisis. The drop in turnover does not have to be connected with the coronavirus crisis.

Wage expenses subsidy

The wage expenses subsidy is intended for employers who hire a person with an illness or disability. This subsidy can be obtained for employees who are unable to earn the minimum wage and makes up the difference between the wage value and the minimum wage. It is intended for employees who fall within the target group of the job arrangement for persons with an occupational disability ('banenafpraak').

No deduction

Contrary to previous plans, the wage expenses subsidy will not be deducted from the compensation received under the NOW. The fact that this will result in a double contribution towards payroll costs is something that the State Secretary is prepared to accept, partly because the costs are limited.

Notification obligation no longer applies

As a result of the above change, the employer is no longer obliged to notify the local authority, which is responsible for implementing the wage expenses subsidy for employees with an occupational disability, of its application for a subsidy under the NOW scheme.

8. Tozo scheme also open to cross-border workers and persons of state-pension age

Entrepreneurs who live in the Netherlands, but whose business is situated elsewhere in the EU, or vice versa, partly qualify for the Temporary Bridging Scheme for Independent Entrepreneurs (Tozo). In future, persons of state-pension age will also be eligible for support under the Tozo scheme. This was announced by State Secretary Tamara van Ark on Friday, 24 April.

Tozo scheme

Entrepreneurs who have been affected financially by the coronavirus crisis are entitled, under certain conditions, to support to help cover their living costs and/or working capital. To prevent self-employed persons who work across the border from falling between two stools, the government has expanded the scheme.

What do you get where?

Self-employed persons who live in the Netherlands and have their business elsewhere within the EU are therefore entitled to support with their living costs. They must rely on the country in which this business is located for working capital support.

Conversely, self-employed persons who live elsewhere in the EU, but have their business in the Netherlands are entitled to receive working capital support. They must rely on their country of residence for support to help cover their living costs. The necessary conditions must, of course, also be met in these situations.

Application processed centrally

The application for self-employed persons who do not live in the Netherlands will be processed centrally via a single local authority. It is not yet known which local authority this will be.

Working capital support also for persons of state-pension age

Following a motion in the Lower House, arrangements have been made to ensure that self-employed persons of state-pension age also qualify for support with working capital. They are not eligible for support to help cover their living costs.

When does the scheme enter into force?

The scheme is expected to be published in the near future, after which the groups of entrepreneurs in question will be able to submit their applications.

Disclaimer

We have endeavoured to compile these texts as reliably and as carefully as possible. Our organisation cannot be held liable for any inaccuracies they may contain or the consequences thereof.