

Tax Alert

August 12th, 2020



Summary:

Emergency Order no. 132/2020 regarding the introduction of relief actions for employees and employers on the background of the coronavirus Sars-Cov-2 pandemic, as well as for the stimulus of the workforce engagement (Kurzarbeit – short-time working, authorized individuals, tele-work, day laborers).

ECOVIS Romania: HR & Payroll Services

Esteemed Partner,

On August 10th, 2020 was published the Emergency Order no.132/2020 regarding the introduction of relief measures for the employees and employers on the background of the Sars-Cov-2 coronavirus pandemic, as well as for the stimulation of the workforce engagement. Below you will find the most important provisions of the Emergency Order no. 132/2020:

I. THE REDUCTION OF THE WORK TIME – KURZARBEIT – SHORT-TIME WORKING

If the activity is temporarily reduced due to the enforcement of the state of emergency/alert, the employers have the possibility to reduce the worktime for employees with at least 50% of the duration mentioned in the individual employment agreement (for employees with full work norm), with the notification of and the consultation with the trade union, of the representatives of the employees or of the employees, according to each situation, prior to the notification of the employees regarding the above-mentioned decision.

The proceedings for applying

The reduction of the worktime is determined through the decision of the employer, for a duration of at least 5 consecutive business days, the employer bearing the obligation of determining the work schedule for the entire month. The reduction is applicable for the work in shifts, as well as for the uneven worktime.

The decision of the employer, the work schedule, the allocation on days and the salary rights will be communicated to the employee with at least 5 days before the actual introduction of the measure and it is transmitted into the REVISAL at least during the day before of its coming into act.

The allowance for the employees

During the reduction of the worktime, the employees affected by the measure benefit of an allowance of **75% of the difference between the basic gross salary mentioned in the individual employment agreement and the basic gross salary due to the work hours provided** as a consequence of the reduction of the worktime, as a support for the completion of the due salary rights, calculated at the time actually worked.

Conditions for obtaining the allowance

1. The reduction affects at least 10% of the number of company's employees;
2. The reduction of activity is justified by a decrease of the turnover due to the month previous to the application of the measure or, at the most, of the month before the previous month with at least 10% compared with the same month of the last year.

The above-mentioned allowance is paid by the employer and it is due at the date of the salary payment for the reference month, and it will be reimbursed by the budget of the unemployment insurances after the employer will fulfill his duties of declaring and paying the wages for the period the request is made for.

ECOVIS Romania: In-Cloud Accounting

The reimbursement of the amounts and the duration of the applicability of the measure will be determined at a later time through a Cabinet Decision.

The allowance is an income assimilated to salary and it is subject to taxation and to the payment of the mandatory social contributions. Additionally, the employers owe the work securement contribution for the period of reduction of the worktime, both for the salary rights due to the worktime actually provided, and for the allowance granted based on the current act, which represents length of service with the unemployment insurance system.

Other important aspects:

- ⇒ During the applicability of the measure, **the employee benefits of all other contractual rights** proportionally with the time actually provided. **As an exception, grating of bonuses** and other supplements for the management structure will be made after the finalization of the applicability of the measure.
- ⇒ During this period **the employees that are affected cannot provide overtime at the same employer** (the interdiction is applicable at branch level, sub-office level or at the level of other secondary business units). Similarly, the affected employees cannot be subject to the reduction of the worktime based on the art. 52 par. (3) of the Employment Code (in case of interruption or temporary decrease of activity, without the cessation of the work relations, due to economy, technology, structural or similar reasons). Supplementary, during the months when the reduction of the worktime is applicable, **the employer cannot initiate collective layoffs**.
- ⇒ **The above-mentioned allowance will be taken into consideration at the calculation of the length of service** of at least 12 months of the last 24 months prior to the registration day of a potential request for unemployment benefits.
- ⇒ **Hiring of new staff is prohibited** for providing identical or similar activities with those provided by the employees with reduced worktime, **as well as the sub-contracting** of activities conducted by the same employees.

Contraventions

The acceptance for work or the rendering of any other type of work, including under the form of tele-work or home office in the benefit of the employer, of one or more employees, **outside of the work-time determined after the reduction of the work hours**, represents a contravention and the employer will be fined with an amount of 20.000 lei for each identified person, but without surpassing the cumulated value of 200.000 lei.

ECOVIS Romania: Transfer Pricing File

II. THE REIMBURSEMENT OF 41.5% FOR SHORT TERM EMPLOYMENT AGREEMENTS FOR UP TO THREE MONTHS

Until December 31st, 2020, but no longer than a period of three months, **at the employer's choice**, for the employees concluding individual employment agreement for a determined period **of up to three months**, it is provided the reimbursement of a part of their salary, paid by the budget of the unemployment insurances, representing **41,5% of the salary due to the days worked at these workplaces, for a work schedule of 8 hours/day**, but no more than 41,5% of the gross average salary income stipulated by the Law no.6/2020 – (2.253 lei), due to the period actually worked.

The employer has the obligation of fully paying the due amounts for provided work based on the employment agreement for a determined period, the amount representing the percentage of 41,5% being later reimbursed by the National Agency for the Engagement of the Workforce (ANOFM) in a maximum 10 days term after the registration of the request, on the basis of a procedure which will be adopted later through a Cabinet Decision.

The allowance for the reduction of the worktime of the employees with at least 50% **IS NOT cumulated**, for the same employee, with the measure regarding the short-time employment contracts for up to three months or with the relief measures granted pursuant to the Emergency Order no. 92/2020, which stipulates the reimbursement of an amount of **41,5% of the contractual salary for a three months period for the employees that were placed under technical unemployment procedure**.

The above-mentioned procedures **are not applicable to the following categories of employers:**

- a) Public institutions;
- b) Employers that are under bankruptcy procedure, under dissolving or closeout or those who have their activities suspended, pursuant to the law;
- c) Employers set-up in jurisdictions un-cooperating for tax purposes.

III. Day laborers (persons providing unskilled work with occasion character)

For the day laborers conducting activity in one of the domains affected by the interruption or reducing of activity as a consequence of the effects of the coronavirus SARS-CoV-2, the state budget grants an amount representing **35% of the payment due to the workday** for a period of three months, at the choice of the works' beneficiary, but no later than December 31st, 2020.

The works' beneficiaries will pay this amounts to the day laborers, from their own funds, at the moment of the payment of the daily work, and later they will be reimbursed by the National Agency for Payments and Social Inspection and by the county agencies for payments and social inspections.

ECOVIS Romania: Consulting for implementing ERP and AI

The request, together with the lists of day laborers benefitting from the amounts, is registered by the works' beneficiaries to be reimbursed and paid, monthly for the previous month, up to the 5th day of each month, in an electronic format. If the request is registered at a later date (after the 5th day of the month), the amount due to the reference month is reimbursed in the following month.

IV. Authorized individuals

In case of the temporary activity reduction determined by the institution of the state of emergency /alert, under the provisions of the law, the professionals benefit, upon request, based on the self-responsibility declaration, by a monthly allowance of 41,5% of the gross average salary income (maximum 2.253 lei).

The payment of the allowance is made by the National Agency for Payments and Social Inspection and by the county agencies for payments and social inspection, respectively the Bucharest agency.

The allowance is subject to income tax and there are owed the social insurance contribution and the contribution for health social insurances. The tax duties are declared through the sole statement regarding the income tax and the social contributions owed by individuals.

As an exception, in 2020 of the above-mentioned allowance benefit the professionals who benefited of the technical unemployment allowance pursuant to OUG no. 30/2020, respectively the allowance of 75% of the gross average salary.

The actual duration for applying the measure, as well as the procedure for the payment of the allowance are to be determined through a Cabinet Decision in maximum 30 days after the coming into act of this Order.

V. FINANCIAL AID FOR TAHE EMPLOYERS WHO ORGANIZED ACTIVITY AS TELE-WORK

For conducting activity under the tele-work system, pursuant to the provisions of the Law no. 81/2018, for one sole time it is granted to the employers, for each tele-employee, a financial aid in amount of 2.500 lei, with the purpose of purchasing IT goods and services necessary for conducting activity under the tele-work system.

The amount mentioned is granted to the employers according to the order of registration of the requests, up to December 31st, 2020, from the budget of the unemployment insurances, through the National Agency for the Engagement of the Workforce, in the limit of the funds allocated for this purpose, for the employees who worked **under the tele-work system during the state of emergency** for at least 15 business days.

The actual modality of granting and the category of goods which can be purchased are determined through an order of the minister of employment and social protection, which will be published by the Official Monitor.

ECOVIS Romania: Financial & Internal Audit Services

The stipulations above **are not applied to the following categories of employers:**

- a) Public institutions;
- b) Employers that are under bankruptcy procedure, under dissolving or closeout or those who have their activities suspended, pursuant to the law;
- c) Employers set-up in jurisdictions un-cooperating for tax purposes.

This info is a selection of some elements of new legislation, with a strictly informing purpose. It is not considered professional consulting and, in consequence, we do not assume any responsibility in this respect. For additional questions regarding the situations mentioned above, please do not hesitate to contact us.

© ECOVIS Romania SRL – 2020

ECOVIS Romania: One Stop Shop

Accounting

- Financial Accounting;
- Preparing & registering tax statements for legal and natural persons, both Romanian and foreign;
- Harmonizing the national financial accounting with the accounting norms of the parent-company;
- Preparing and certifying the annual financial situations;

Audit

- Financial audit according to ISA;
- Restatement of financial statements prepared according to national regulations, to International Financial Reporting Standards (IAS/IFRS) or Reporting Standards specific to the Client (GAAP);
- Financial audit required by the group's policy;
- Internal audit;
- Audit missions such as: agreed procedures (ISA 4.400), revisions (ISA 2.400), due diligence;

Payroll & HR

- Payroll services;
- Managing, auditing and registering the personnel files according to legal bindings and to the company's regulations;
- Preparing the job descriptions and of the Internal Order Regulation specific to Client's activity;
- Interface with banking applications and performing of salary payment transactions;
- Staff appraisal and selection for accounting/HR departments;

Consulting

- Tax consulting
- Assistance for drafting **the transfer pricing file**;
- Consulting for M&A, company restructuring;
- Assistance in implementing IT solutions regarding: financial and management accounting, employees' records, payroll, management reports, etc.;
- Tax registration of various entities and VAT payer registration;
- Tailored information regarding significant law

Contact us at:

29A Tudor Vladimirescu Avenue, 5th District, Bucharest, Romania

Phone (landline): +4021.410 20 60; **Fax:** +4021 .404.31.60

Cell phone: +40724.343.500

E-mail address: office@ecovis.ro; **Web:** www.ecovis.ro, www.ecovis.com