

23/4/2020: Economic Measures for Employers and Entrepreneurs Adopted by Slovak Government

On 14 April 2020, the Slovak Government updated the scope and conditions of economic measures and state support aimed at:

- 1. employers, whose operations were compulsorily closed,**
- 2. entrepreneurs, who were compulsorily closed or are experiencing a decline in sales,**
- 3. employers, whose operations were closed/limited due to the state of emergency (3A) or who are experiencing a decline in sales (3B).**

On 17 April 2020, the Central Office of Labour, Social Affairs and Family issued the Announcement on the option to submit a request for financial contribution through the project "First Aid" No. 3/2020/§54, which implements the abovementioned economic measures and state support approved by the Slovak Government.

According to the Announcement, the conditions of the project may be subject to further updates depending on the development of extraordinary situation. Therefore, please note that the below summary is of an informative nature only.

Employee – definition for the purpose of the First Aid project:

- employee with start of employment no later than 1 March 2020
- employment relationship based on an employment contract (e.g., not applicable for agreements)
- employer may increase the number of employed employees during the period when state support is provided, but no state support will be given for such new employees
- employer may not, while receiving state support, transfer an employee (for whom it receives the state support) to another business establishment, if the employer has more than one establishment
- state support cannot be provided for employees for the period during which they receive social security benefits (sick leave, sick leave).

Affidavit – consequences of breach:

- an affidavit is part of each request for state support
- the facts declared in the affidavit may be subject to ex-post controls
- the legal consequences of making a false statement about the facts mentioned in the affidavit, may include criminal prosecution (e.g., for criminal acts of fraud, subsidy fraud, damage to the financial interests of European Communities)

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1. CONTRIBUTIONS TO EMPLOYERS WITH COMPULSORILY CLOSED OPERATIONS

The state will reimburse **80% of an employee's average salary to employers** (either a natural person – entrepreneur or legal entity), whose operations have been compulsorily closed since 16 March 2020, on the basis of public health authority measures (to compensate salary costs).

The limits shall be 80% of the employee's gross average salary (maximum EUR 1,100 per person) as a contribution for salary compensation paid by employers to employees (during closed operations). If the employer agreed with employee representatives on a lower salary compensation (in line with Art. 142 sec. 4 of the Labour Code), during closed operations such lower amount will be paid by the state (maximum EUR 880).

The main conditions:

- must be an employer in Slovakia,
- only subjects, which were established and started business operations by 1 February 2020 at the latest, are eligible
- limited liability companies without any employees are not eligible for this state support
- fulfilment of all conditions in the affidavit – which is part of the request for state support

Affidavit – by submitting a request for state support, the applicant confirms that it:

1. is paying salary compensation to its employees according to the Labour Code
2. does not request support for employees in a notice period or employees receiving a social security payment due to obstacles to their work
3. does not request state support for employees for which it already receives other forms of state aid/contributions from the Office of Labour, Social Affairs and Family
4. does not request state support for employees which started to work after 1 March 2020
5. shall not terminate the employment relationship with the employee by termination notice or termination agreement (on the basis of closing of the company and/or redundancy) within two months following the month for which the state support is provided
6. was not in difficulty by December 31st, 2019 as defined by EU legislation¹
7. meets other conditions under the Employment Services Act
 - a) fulfilled income tax obligations,
 - b) paid social/health contributions to Social and Health insurance
 - c) no breach of the prohibition of illegal employment within the preceding two years
 - d) no due financial obligations to Office of Labour, Social Affairs and Family
 - e) not in bankruptcy, liquidation, imposed administration or does not have an instalment calendar under special regulation
 - f) no registered unfulfilled claims towards employees resulting from an employment relationship
 - g) no legal penalty prohibiting it from receiving grants or subventions or prohibiting it from receiving assistance or support from EU funds (in the case of a legal entity)
8. is not obliged to return the support pursuant to a previous EU Commission decision finding the support to be illegal and incompatible with the internal market
9. is an entity that was established and started business operations by 1 February 2020, at the latest.

¹ On 22 April 2020, the Ministry of employment announced that the EU granted an exception to this rule. The details are not known yet.

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The request for March 2020 must be submitted by 15 May 2020. An application for the months of April or May 2020 should be submitted by the end of the calendar month following the calendar month for which the employer applies for the support.

2. CONTRIBUTIONS TO ENTREPRENEURS AFFECTED BY DECLINE IN SALES

The state will provide a financial contribution (to compensate the loss of income) to self-employed persons (natural persons, i.e., entrepreneurs performing business under the Trade Licensing Act, including self-employed persons performing business under special laws (auditors, notaries, actors, etc.) and farmers.

The main conditions:

- only subjects, which were established and started business operations by 1 February 2020, at the latest, are eligible
- with regard to social insurance the self-employed:
 - a) was registered for social insurance (health and retirement insurance) in the period before 31 March 2020, and insurance continues even after this date; or
 - b) has a “social insurance holiday” (i.e., is not obliged to pay social contributions from the start of doing business until 1 July of the respective calendar year)
- a self-employed person is not eligible for support if:
 - a) his/her trade licence has been cancelled or suspended; or
 - b) has a parallel employment relationship.
- limited liability companies without any employees are not eligible for this state support
- fulfilment of all conditions in the affidavit – which is part of the request for state support
- the amount of the contribution will depend on the amount of the decline in sales (see below)

<u>Sales decline</u>	<u>March 2020</u>	<u>Sales decline</u>	<u>April/May 2020</u>
Less than 10%	EUR 0	Less than 20%	EUR 0
10% - 19.99%	EUR 90	≥ 20% - 39.99%	EUR 180
20% - 29.99%	EUR 150	≥ 40% - 59.99%	EUR 300
30% - 39.99%	EUR 210	≥ 60% - 79.99%	EUR 420
40% and more	EUR 270	≥ 80% and more	EUR 540

Each applicant **may choose one method** of calculating the decrease in sales **from the following 3 options**:

1. sales for the reported month are compared with the sales for the same month of the previous year (e.g., for the reported period 03/2020 – the previous one is 03/2019)
2. average of 2019 sales (i.e., 1/12 of 2019 sales) is compared with the sales for the reported month – please note that only those who performed business throughout the whole of 2019 are eligible
3. sales for February 2020 are compared with the sales for the reported month – please note that only those who performed business for only a part of 2019 and started business by 1 February 2020, at the latest, are eligible.

The State will rely on affidavits when assessing the decline in sales and may review the correctness of the data after the crisis.

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The total amount of aid for one applicant who is a self-employed person may not exceed EUR 800,000.00.

Affidavit – by submitting a request for state support, the applicant confirms that he/she:

1. was not in difficulty by December 31st, 2019, as defined by EU legislation²
2. experienced the decline in sales in connection with the declaration of an extraordinary situation, state of emergency or extraordinary state,
3. meets other conditions under the Employment Services Act:
 - a) fulfilled income tax obligations,
 - b) paid social/health contributions to Social and Health insurance
 - c) no breach of the prohibition of illegal employment within the preceding two years
 - d) no due financial obligations to the Office of Labour, Social Affairs and Family
 - e) not in bankruptcy, liquidation, imposed administration or does not have an instalment calendar under special regulation
 - f) no registered unfulfilled claims towards employees resulting from an employment relationship
 - g) no legal penalty prohibiting it from receiving grants or subventions or prohibiting it from receiving assistance or support from EU funds (in the case of a legal entity)
4. is not obliged to return the support pursuant to a previous EU Commission decision finding the support to be illegal and incompatible with the internal market
5. was established and started business operation by 1 February 2020, at the latest.

The request for March 2020 must be submitted by 15 May 2020. An application for the months of April or May 2020 should be submitted by the end of the calendar month following the calendar month for which the entrepreneur applies for the support.

3. CONTRIBUTIONS TO EMPLOYERS WITH CLOSED/LIMITED OPERATIONS OR AFFECTED BY DECLINE IN SALES

The state will provide:

- a) **employers**, whose operations **were closed/limited due to the state of emergency (3A)** a financial contribution to the salary compensation of an employee, to whom the employer could not assign work due to obstacles on the part of the employer caused by the extraordinary situation (§ 142 of the Labour Code), **up to 80% of the employee's average earnings, maximum up to EUR 880**
or
- b) **employers**, who are **experiencing a decline in sales (3B)** a **flat-rate financial contribution** to cover part of the salary costs of an employee, depending on the decrease in the employer's sales.

The main conditions:

- must be an employer in Slovakia,
- only subjects, which were established and started business operation by 1 February 2020, at the latest, are

² On 22 April 2020, the Ministry of employment announced that the EU granted an exception to this rule. The details are not known yet.

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eligible

- **the employer can choose only one option (i.e., either 3A or 3B)** for the whole period of the extraordinary situation
- limited liability companies without any employees are not eligible for this state support
- fulfilment of all conditions in the affidavit – which is part of the request for state support
- the amount of the contribution will depend on the amount of the decline in sales (see below)

<u>Sales decline</u>	<u>March 2020</u>	<u>Sales decline</u>	<u>April / May 2020</u>
Less than 10%	EUR 0	Less than 20%	EUR 0
10 % - 19.99%	EUR 90	≥ 20% - 39.99%	EUR 180
20 % - 29.99%	EUR 150	≥ 40% - 59.99%	EUR 300
30 % - 39.99%	EUR 210	≥ 60% - 79.99%	EUR 420
40% and more	EUR 270	≥ 80% and more	EUR 540

Each applicant **may choose one method** of calculating the decrease in sales **from the following 3 options**:

4. sales for the reported month are compared with the sales for the same month of the previous year (e.g., for the reported period 03/2020 – the previous one is 03/2019)
5. average of 2019 sales (i.e., 1/12 of 2019 sales) is compared with the sales for the reported month – please note that only those who performed business throughout the whole of 2019 are eligible
6. sales for February 2020 are compared with the sales for the reported month – please note that only those who performed business for only a part of 2019, and started business by 1 February 2020, at the latest, are eligible

The State will rely on affidavits when assessing the decline in sales and may review the correctness of the data after the crisis.

For the purposes of 3B, both an employee to whom an employer assigns work, as well as an employee to whom the employer could not assign work due to obstacles on the part of the employer, are considered as an employee.

The condition for providing support under 3B is also that employee did not spent more than 50% of his/her monthly working time due to obstacles on the part of the employee (e.g., sick-leave, care leave) or on holiday.

Affidavit – by submitting the request for state support, the applicant confirms that it:

1. is paying salary compensation to its employees according to the Labour Code
2. does not request support for employees in a notice period or employees receiving a social security payment due to obstacles to their work
3. does not request state support for employees for which it already receives other forms of state aid/contributions from the Office of Labour, Social Affairs and Family
4. does not request state support for employees, which started to work after 2 March 2020
5. shall not terminate the employment relationship with the employee by termination notice or termination agreement (on the basis of closing of the company and/or redundancy) within two months following the month for which the state support is provided
6. was not in difficulty by December 31st, 2019, as defined by EU legislation³

³ On 22 April 2020, the Ministry of employment announced that the EU granted an exception to this rule. The details are not known yet.

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7. meets other conditions under the Employment Services Act
 - a) fulfilled income tax obligations,
 - b) paid social/health contributions to Social and Health insurance
 - c) no breach of the prohibition of illegal employment within the preceding two years
 - d) no due financial obligations to Office of Labour, Social Affairs and Family
 - e) not in bankruptcy, liquidation, imposed administration or does not have an instalment calendar under special regulation
 - f) no registered unfulfilled claims towards employees resulting from an employment relationship
 - g) no legal penalty prohibiting it from receiving grants or subventions or prohibiting it from receiving assistance or support from EU funds (in the case of a legal entity)
8. is not obliged to return the support pursuant to a previous EU Commission decision finding the support to be illegal and incompatible with the internal market
9. is an entity that was established and started business operations by 1 February 2020, at the latest.

The request for March 2020, must be submitted by 15 May 2020. An application for the months of April or May 2020 should be submitted by the end of the calendar month following the calendar month for which the employer applies for the support.

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This summary is for informational purposes only and may not be considered a legal opinion or advice on how to proceed in a particular case. The summary reflects the status as of 23 April 2020.

For any legal matters arising in these special circumstances, please do not hesitate to contact our COVID-19 Help desk at covidhelpdesk@peterkapartners.com.