

Covid-19 Update

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Introduction

The coronavirus outbreak does not only have a huge impact on our personal lives, but it has also an enormous impact on the economy and entrepreneurs. In this newsflash we will pay specific attention to the tax impact of the coronavirus on entrepreneurs. In addition, we will also provide an overview of the counter measures the Dutch government (and Brussels) have announced. We will continuously update this newsflash to make sure you will be fully updated on the latest developments. Please do not forget to regularly visit the website of the [National Institute for Public Health and the Environment \(RIVM\)](#) to make sure you are fully aware of other non-tax related matters as well.

For an overview of the counter measures and the tax impact of the corona virus in other countries, please also visit the [WTS global website](#).

Tax related measures

On 12 March 2020, the Dutch government announced several tax related measures to support businesses as a consequence of the coronavirus (COVID-19). We will discuss these measures below, as well as a number of other (tax) related issues and actions.

1. Deferral of payment

The Dutch government has announced that the Dutch tax authorities will grant a postponement of payment for corporate income tax, personal income tax, wage tax and VAT in case an entrepreneur can substantiate in writing that payment problems have arisen as a result of the corona crisis. The Dutch tax authorities will only grant postponement of payment after the assessment is imposed. For taxes for which the tax liability is determined upon filing the tax return (such as VAT and wage tax) the procedure is as follows: the respective tax return has to be filed first, payment thereof has to be overdue, as a result of which the Dutch tax authorities impose an additional tax assessment for which payment deferral can be requested for.

No insolvency notice has to be filed in case one requested for deferral of payment due to the coronacrisis as such a request for deferral is *in principle* considered an insolvency notice. This does not only apply to future payment periods, but also for the ones that just lapsed as from February.

The insolvency notice / notice of inability to pay must be filed within two weeks after the moment at which the tax due must be settled.

Currently, a deferral of payment for various taxes can be requested for at once (also online – DigiD required).

As soon as the request is received by the Dutch tax authorities, collection of payment will be postponed. An assessment of such request will take place at a later date. We can assist you in preparing the request.

The term of 3 months commences from the date of the request* for deferment of payment. The collection of payment shall be postponed for those 3 months. For debts incurred in respect of periods prior to the crisis, collection of payment will also be automatically postponed for three months after a request* for deferral has been submitted. If a postponement is requested for three months, the postponement will expire after three months.

Example: A request for a special postponement is submitted on 1 May 2020. Tax assessments with a final payment date from 1 May 2020 to 31 July 2020 shall be postponed until 1 August 2020. These assessments would have – in principle – to be paid by 1 August. It is unclear if for such assessments special payment arrangements can be agreed upon with the Dutch tax authorities.

UPDATE 14/05/20: *If the deferral is revoked, an appropriate payment arrangement can still be concluded. This is not tied to a maximum term or to any other requirements set in the regular deferral policy.*

During the deferral, the recipient may request interim payments if the entrepreneur's liquidity position allows it.

The Dutch tax authorities have indicated that a taxpayer is automatically granted a 3-month deferment of payment upon application. This period can possibly be extended if requested.

A third party expert's declaration is required if deferment is requested for more than 3 months and the total tax liability for which deferment is requested exceeds EUR 20,000. The requirements are:

- a) Existing payment difficulties make a longer deferral necessary.
- b) These payment difficulties have mainly been caused by the corona crisis.
- c) For the tax liability for which the deferral is requested, the obligation to file a tax return has been met.
- d) The requested deferral relates to one or more taxes.
- e) If the total tax liability *at the time of receipt of the request* for deferral amounts to EUR 20,000 or more, a statement from a third party expert meeting the requirements set out in approval 3 is required.

The statement needs to be based on:

- That it is plausible that there are indeed payment problems at the time of the request for deferral or that they are expected shortly thereafter.
- 'Shortly' refers to the period in which the current restrictions with regard to the entrepreneur in question apply.
- A plausible statement that these payment difficulties were mainly caused by the corona crisis.
- A liquidity prognosis that is reasonable according to the third party expert. This prognosis has been drawn up on the basis of the facts and circumstances known at the time the request for deferral is submitted.

In the explanation to the statement, the third party expert indicates which documents or information have been provided by the entrepreneur. If necessary, he shall explain this in more detail.

Suspension of deferral

Granted deferral of payment is of a temporary nature and will be revoked as soon as circumstances permit this. This may be the case if the restrictions, with respect to the sector in which the entrepreneur is active, are lifted. For example, in the case restaurants are allowed to reopen.

Set off

The Dutch tax authorities do not - during the period of deferral - set off tax refunds (of any kind) with a tax liability for which deferral has been granted, unless the entrepreneur specifically requests for it (or the interests of the State are adversely affected).

The Dutch tax authorities announced a tax payer can request for an additional extension of 3 months. In such cases, the requirement of a written confirmation drawn up by an expert is not required if the total tax liability for which deferral of payment is requested for exceeds an amount of EUR 20,000. In those cases, a tax payer would have to provide documents based on which the turnover or the orders/reservations have significantly decreased compared to previous months. A written confirmation is however still required in case the tax liability for which a deferral of payment is requested for exceeds an amount of EUR 20,000.

G-rekening

Companies that second or outsource personnel and that make use of a so-called 'g-rekening', can request the Dutch tax authorities to deblock such accounts under certain circumstances.

Also check the website of the [Dutch tax authorities](#) for further information (only available in NL).

2. Default penalties

The Dutch tax authorities will omit or reverse penalty imposed in relation to failure to pay taxes on time. Imposed fines can be reduced or in some cases even be reversed. In case a tax assessment is not paid in time, interest on late payments will be due. At the moment, the late payment interest is 4%, calculated on the day the payment term has expired. As of 23 March 2020 this interest will be temporarily reduced to 0.01%.

This in order to compensate entrepreneurs and companies that might be affected by the corona crisis. This reduction does not only apply to tax liabilities for which deferral of payment is requested for, but this applies to all tax liabilities.

UPDATE 14/05/20: If taxpayers, because of the reduction in the late payment interest, can no longer claim a payment discount, they can object to the decree fixing the amount of the payment discount, after which the difference will be granted.

In addition, the taxation interest rate will also be temporarily reduced. This is the interest that the Dutch Tax Authorities will charge in the event of filing a tax return too late. Currently a rate of 4% applies to the corporate income tax applies (for other taxes a rate of 8% applies). The interest rates will be lowered to 0.01% from 1 June 2020 for all taxes, except the personal income tax (as of 1 July 2020).

Also check the website of the [Dutch tax authorities](#) for further information (only available in NL).

3. Reduction of preliminary assessment

In the event a preliminary assessment has been imposed and it appears that during the financial year the profit for tax purposes will be lower than the profit estimated such assessment, a reduction of the preliminary assessment could be requested for. In that case, less tax will have to be paid immediately. The Dutch government has indicated that requests for a reduction in connection with the coronavirus will be granted/ approved by the Dutch tax authorities. If no profits are expected for the underlying year, the amounts paid on the 2020 preliminary assessment will be refunded immediately.

4. Facilitating the hour criteria for 2020

In order to prevent businesses and entrepreneurs from losing the right to certain tax benefits / facilities because they can no longer meet the hour criterion as a result of the corona crisis, the Dutch Tax Authorities will, from 1 March 2020 to 31 May 2020, assume that entrepreneurs have spent at least 24 hours a week on their business, even if they have not actually spent those hours due to the corona crisis.

Special (additional) rules apply to the starter deduction in the event of work disability and for seasonal entrepreneurs.

5. The closure of (higher) courts

Due to the coronavirus outbreak it was decided to close (higher) courts as from Tuesday 17 March 2020. Urgent cases will still be dealt with by the courts. These are cases where a court decision cannot be omitted because it affects the rights of suspects or litigants. Examples of urgent cases are cases concerning appearing for a judge or detention of

suspects, bankruptcies, hearings concerning compulsory care and/or care authorizations, urgent family matters such as relocation or supervision. Furthermore, the Court of Justice of the EU has indicated that urgent cases will proceed. Less urgent matters will be postponed until further notice.

It is announced that the (higher) courts are – to some extent - opened as from 11 May 2020.

Other points of interest

Apart from the aforementioned measures made by the Dutch government, there are many other consequences that entrepreneurs can or must take into account as a result of the coronavirus.

6. VAT aspects

Staff provisions (BUA)

As a result of the coronavirus outbreak, almost all companies stopped their personnel activities as a precaution. In principle, VAT on the costs of organizing staff activities falls under the so-called BUA. This means that VAT on such costs is not deductible to the extent that such costs per staff member, per year, exceeds EUR 227.

In our view it is defensible that - when a certain staff provision has never taken place - the VAT on such costs is not included in the calculation of the BUA, but that the relevant VAT can be deducted in accordance with the pro rata of the company. The same also applies to VAT on the purchase of so-called business gifts that were never given to business relations due to the coronavirus outbreak.

Finally, we note that the appeal to work from home may have consequences for the VAT adjustment in respect of providing a (company)car (or delivery van) to employees. Given the fact that many employees have been summoned to work from home there, such cars may also be used for private matters, which may trigger a corresponding VAT adjustment.

Customer payment issues

Customers may face payment problems due to the economic consequences of the corona virus. It is advisable to monitor the payment behavior of customers and assess whether customers may no longer be able to pay their debts as a result of the corona virus. Subject to conditions, the VAT paid can be reclaimed in that case.

Customers who will face payment problems, VAT that has been deducted in respect of the purchased goods and/or services will become due by operation of law. It occurs to us that the customer can apply for a deferral of payment with regard to this VAT due.

Cancellation, termination and dissolution

In view of the measures taken in the recent period, many events have been postponed or even cancelled. In many cases the organizer has already paid the accounted VAT. Under certain circumstances, it is possible to reclaim this VAT from the Dutch tax authorities.

However, it is important to check to what extent the organizer of the event would be required to refund the relating VAT to the company that cancelled the event.

Possibilities to increase the liquidity

To increase liquidity, VAT taxable persons that are in a refund position due to the Covid-19 crisis, could consider to request the Dutch Tax Authorities to shift their periodical VAT return from an annual or quarterly return, to a monthly VAT return. At this time, no specific policy on this option has been communicated by the Dutch Tax Authorities, it may however be worthwhile to further explore.

7. Dutch customs

The Dutch customs authorities have taken a number of measures to help importers who got into problems because of the COVID-19 crisis. These measures consist of the following:

- 1) Tailor made solutions for importers who have difficulties in meeting deadlines, such as the deadline to file supplementary customs declarations and requests for refunds;
- 2) Tailor made solutions for importers who have difficulties in meeting the solvency requirements for certain licenses, such as AEO authorisations and guarantees;
- 3) The possibility to apply for a deferment of payment of the customs debt until the 15th day of the month following the month in which the Corona measures will end. A deferment of payment for excise duties (“*accijnzen*”) and consumption taxes (“*verbruiksbelastingen*”) can be applied for after the assessment (“*naheffingsaanslag*”) will have been issued by the customs authorities; and
- 4) In case formalities are not performed in time because of the Corona crisis, the authorities will take a lenient approach, provided that the situation of non-compliance that has arisen cannot be considered a crime (“*misdrijf*”) or misdemeanor (“*overtreding*”) and/or intent or gross negligence.

It is possible to request for a deferral for payment of customs duties if tax payers are in financial difficulties.

Visit the website of the [Dutch tax authorities](#) for further information.

8. Payroll tax

Hiring of personnel

Extra alertness is required when a company is hiring personnel. If the party from whom you are hiring does not pay the wage tax due, you may be held liable as a hirer.

Budget work related cost rules ('WCR') increased

Under the work-related costs rules, a certain percentage of the total salary bill for tax purposes may be spent on tax-free allowances, benefits in kind and postings for employees, the so-called WCR budget. The WCR will be increased from 1.7% to 3% over the first EUR 400,000 of the total salary bill for tax purposes in 2020.

UPDATE 14/05/20:

In anticipation of an amendment to the law on increasing the budget, the aforementioned has already been included in a Decree of the Dutch State Secretary of Finance of 6 May (No. 2020-9594, Staatscourant 2020).

Fixed travel allowance

The fixed travel allowance paid out to employees may be continued without modification. As long as the crisis measures apply, employers may base the allowance on the travel pattern on which the allowance was based. This also applies when a recalculation is normally applied to the fixed travel allowance.

Facilitation of administrative obligations with regard to payroll tax

Due to the fact that many employees are required to work from home and people must keep a distance of 1.5 meters, it may not be possible to meet all the administrative obligations for the payroll tax. Taking this into account, the Dutch Tax Authorities currently do not attach any consequences to this.

The administrative obligations will have to be fulfilled as soon as this is possible again. For example, it may not be possible to establish the employee's identity on the basis of an original identity document. Normally, the anonymity rate of 52% should then be applied for this employee, among other things. Application of this rate may be omitted, provided that the identity of the employee is correctly established as soon as this is possible.

Frontier workers

Due to the measures concerning the COVID-19 outbreak, it is possible that employees who are now temporarily obliged to work from home may work in a country other than the one where they normally work. This may affect the tax and social security position of the employee and possibly also the company.

For further information, we refer to our article "[The tax/social security impact of COVID-19 on cross-border activities](#)" on the Atlas website in which we discuss the tax and social security consequences cross-border activities.

Other actions

9. 'Emergency Fund to bridge employment'

Until recently, companies affected by the coronavirus and meeting all the conditions, were eligible for the regulation for reduced working hours. This regulation has since been stopped and replaced by the 'Emergency Bridging Employment Fund' ('Noodfonds overbrugging werkgelegenheid': NOW). The reason for this is that the government wants to provide financial support to more employers and more quickly than under the regulation for reduced working hours. Applications for the NOW can be filed with the [UWV](#) digitally.

In brief, under the NOW an employer will receive a compensation in the event of a loss in turnover of at least 20%. The compensation is a maximum of 90% of the total wage to be paid if turnover loss amounts 100%. This means that a turnover loss of 50% results in a 45% compensation (i.e. the compensation percentage depends on the drop in turnover). The application is valid for a period of three months and, if conditions are met, can be extended once for an additional period of three months. This compensation is a regulation apart from the regulation for reduced working hours (i.e. this regulation continues to persist) and the Unemployment Act ('Werkloosheidwet').

In order to qualify for the NOW certain conditions must be met:

- With the application of the NOW, the employer commits to the obligation not to dismiss its employees on business economic related grounds during the period for which the NOW applies;
- The applicant expects at least a turnover reduction of 20% (note: afterwards, the actual reduction will be determined);
- The application is valid for a period of three months, which may be extended once for another three months (further conditions may apply to such extension);
- The NOW relates to a turnover drop as from 1 March, 2020;
- The amount received under the NOW depends on the drop in turnover with a maximum of 90% of the total wages to be paid.

Please find below some examples of the relation between turnover loss and the amount under NOW (i.e. the compensation percentage depends on the drop in turnover):

- A drop of turnover of 100% results in a compensation under the NOW of 90%;
- A drop of turnover of 50% results in a compensation under the NOW of 45%;

- A drop of turnover of 25% results in a compensation under the NOW of 22.5%.
- On the basis of your application, the UWV will provide an advance payment equal to 80% of the expected compensation.
- An auditor declaration is required for applications over and above the an amount that has to be determined.
- When the final NOW compensation is calculated, an adjustment will be made if there was a drop of the total amount of wages.
- Employers must continue to pay 100% of the wages to its employees if they make use of the NOW.

Please visit the website of [Dutch government \(NL only\)](#) for further explanations.

10. Director/major shareholders (DGA's)

Excessive borrowing from own company

The rules aimed at discouraging excessive borrowing from own companies by director/significant shareholders ('directeur-grotoaandeelhouders' (DGA's)) will be postponed by one year to 1 January 2023.

This will give DGA's more time to prepare themselves and pay off debts to their own company that exceed EUR 500,000 (excluding housing related debts as mortgaged etc.).

Reduction of notional wage

For substantial shareholders, who perform activities in the company in which they hold the interest, the so-called notional wage scheme applies. Based on this regulation, a certain wage must be taken into account by the shareholder.

If, as a result of the corona crisis, one is faced with a decrease in turnover, then - under certain conditions - a lower notional wage may be taken into account in line to the decrease in turnover in 2020.

UPDATE 14/05/20:

Further details and conditions of this measure are included in the above-mentioned Decree of 6 May.

In short, the notional wage for 2020 can be determined using the following formula, whereby the turnover must be taken excluding turnover tax (VAT):
$$\text{usual wages 2020} = \text{usual wages 2019} \times (\text{turnover first 4 months 2020} / \text{turnover first 4 months 2019})$$

The following conditions apply with respect to the above:

- The current account debt or the dividend may not increase;
- If the substantial interest holder actually received more salary than follows from the formula, the higher salary applies;
- The reduction of the notional wage through this formula cannot be used insofar as turnover in 2019 or 2020 is affected by other special causes, such as incorporation, strike, merger, division and extraordinary results.

The aforementioned approval does not lead to a higher notional wage and does not affect the legal possibilities to demonstrate a lower notional wage.

11. Retroactive (de)mergers

A conversion of an enterprise into an NV or BV or vice versa is under certain conditions possible with retroactive effect to the beginning of the year. One of the conditions is that certain legal actions have been carried out within 15 months of the desired commencement date. This period will be extended by 3 months if the period expires in the period 1 March 2020 up to and including 31 May 2020.

Terms also apply in the event of a request for a merger or demerger with retroactive effect. In the case of a (de)merger, a period of 12 months applies to perform the certain legal acts. In the case of a merger, a period of 15 months applies. If the period expires in the period from 1 March 2020 up to and including 31 May 2020, this period shall be extended by 3 months.

12. Financial measures

SME Credit Guarantee Scheme

In addition to the measures that companies can take themselves with their creditors (e.g. deferral of repayments or interest payments) the Dutch Government aims to temporarily expand the SME Credit Guarantee Scheme (*“Borgstelling MKB kredieten: BMKB”*). A higher guarantee of the Dutch government in the form of a SME credit from 50% to 75% (of which the Dutch government will provide a guarantee for of 90%) is being considered. Entrepreneurs can apply to this (with their lenders) as from 16 March 2020. It will also apply to bridge loans and overdraft facilities with a term of up to two years (initially one year). Non-bank financiers can now accredit themselves to finance their existing customers under the corona module of this scheme.

The BMKN is intended for companies with up to 250 employees (FTEs) and an annual turnover with a maximum of EUR 50 million or a balance sheet total up to EUR 43 million. This rule will apply until 1 April 2021.

Temporary Bridging Scheme Self-employed persons ('Tozo')

With the Tozo one can apply for a loan up to max. EUR 10,157 to increase its working capital. This loan is granted under favorable conditions and is intended for independent entrepreneurs, including self-employed persons.

With this scheme, self-employed entrepreneurs can receive a maximum of EUR 1.500 per month. The scheme is based on the Self Employed Persons Decree 2004 ("*Besluit bijstandverlening zelfstandigen 2004*") and will be implemented by municipalities. Therefore, you have to submit an application (digital application form) at your municipality where you live and not where your business is located at.

The conditions for the Tozo are:

- Established self-employers, from the age of 18-up to the age of retirement;
- One is a resident of the Netherlands (and legally allowed to reside in the Netherlands);
- His business is carried out in the Netherlands;
- Meets the legal requirements for the exercise of one's own business, including being registered at the Dutch Chamber of Commerce ("*KvK*");
- Started his business before 17 March 2020 at 6.45 pm and meets the so-called "hour criterion" (i.e. working in its business for a minimum of 1,225 hours per year);
- Resident of the municipality of application, and
- The income has dropped below the social minimum due to the corona crisis.

Please visit the website of [Ondernemingsplein](#) for further information.

Qredits

The repayment conditions for microcredits of small businesses, including self-employed persons, will be made more flexible via Qredits. Small businesses which already have a credit through Qredits and have been affected by the corona crisis will be offered a six month repayment deferral. The interest rate has been lowered to 2% during this period. The Dutch government will support Qredits with a maximum of EUR 6 million.

Please visit the website of [Ondernemingsplein](#) for further information.

One-off gift of EUR 4,000 (TOGS)

The Dutch government has announced that entrepreneurs (e.g. catering / hospitality industry etc. – that are affected by the 1.5 meter distance requirement) who are confronted with a turnover loss due to the coronavirus outbreak will be able to receive a one-off gift of EUR 4,000 for a period of three months.

From 30 March 2020, additional groups of entrepreneurs in the non-food sector, such as shopkeepers etc., will also be able to make use of the gift. This gift is exempt from tax and is freely disposable.

The conditions are:

- The main activity of the company corresponds to one of the SBI-codes named in the scheme;
- The applicant has a maximum of 250 employees;
- The applicant is physically located in the Netherlands, and;
- The applicant expects a turnover loss of at least EUR 4.000 between the period of 16 March 2020 and 15 June 2020.

Via the website of the rvo.nl you can apply for this gift.

Company Financing Guarantee (GO)

Through the GO regulation, the government guarantees 50% of bank loans and guarantees up to a maximum of EUR 150 million per company. The total amount of the scheme has been increased from EUR 400 million to EUR 1.5 billion.

Please visit the website of the RVO for more information.

Bridging loans for start-ups, scale-ups and non-bank-financed SMEs

A broad group of companies is financed with equity or venture capital. These include start-ups and scale-ups, in which it is expected that equity will play a role in addition to the need for bridging credit.

In addition, there are also many SMEs that have financed themselves through retained earnings, for example. These companies usually have a healthy balance sheet, but do not have a banking relationship and due to the corona crisis it is difficult to obtain credit from a bank.

The Regional Development Agencies (ROMs) provide special bridging loans at the request of the government. From 29 April 2020, growth companies can apply for a so-called Corona-bridge loan facility (COL). The government will make EUR 100 million available as a first tranche for this purpose.

The loans to be granted by the ROMs vary between EUR 50,000 and EUR 2 million. For amounts above EUR 250,000, 25% co-financing is expected from the shareholders or other investors. An uniform interest rate of 3% applies.

More information can be found on the website of the ROM.

UPDATE 14/05/20

Small Corona Credit

The Dutch government will guarantee 95% of EUR 750 million in bridging loans for small businesses (micro, small and medium-sized enterprises) with a relatively small financing requirement.

This so-called Small Credit is aimed at entrepreneurs, that:

- Were sufficiently profitable before the COVID-19 outbreak;
- Have a turnover starting at EUR 50,000; and
- Were registered in the Chamber of Commerce before 1 January 2019.

Under the Small Credit regulation, entrepreneurs can apply for a loan of a minimum of EUR 10,000 to a maximum of EUR 50,000. The term is a maximum of 5 years, and the interest rate is a maximum of 4%. In addition, entrepreneurs pay a one-time fee of 2% to the State as compensation.

The actual entry into force and the form of the regulation are subject to the approval of the European Commission (EC).

13. Tax Accounting

General

For IFRS accounting the outbreak presents challenges to entities. Financial issues to be considered include:

- Events after the reporting period. The coronavirus outbreak occurred at a time close to reporting date and has continued to evolve throughout the time line crossing 31 December 2019. Management is to assess to what extent the event qualifies as an adjusting or non-adjusting event. Adjusting events are reflected in the financial statements. For non-adjusting events, the management is to assess what additional disclosures are to be provided;
- Fair value measurement. When making the critical assessments and judgements for measuring fair value, it is to be considered what conditions and corresponding assumptions were known or knowable to market participants. The impact would depend on the evaluation of whether the severity of the outbreak at the reporting date would have impacted market participants' valuation assumptions at that date;
- Expected credit loss ("ECL") assessment. ECL is a probability weighted amount that is determined by evaluating a range of possible outcomes. Accordingly, management is required to ensure that there is reasonable and supportable consideration of past events, current conditions and forecast of future economic conditions when making that assessment;

- Impairment assessment. An asset is impaired when an entity is not able to recover its carrying value, either by using or selling it. The recoverable amount of the asset is to be estimated. Events after the reporting period are to be considered in the impairment indicator assessment if they provide additional evidence of conditions that existed at the end of the reporting period;
- Disclosure requirements relating to assumptions made concerning the future, and other major sources of estimates of uncertainty at the end of the reporting period, that have a significant risk of resulting in a material adjustment to the carrying amounts of assets and liabilities within the next financial year.

The items listed are by no means intended to be exhaustive. Furthermore, implications of the coronavirus outbreak vary depending on an entity's specific situation. Assessments made for IFRS purposes are often based on criteria that differ from the relevant criteria applied for Dutch corporate income tax purposes. Consequently, also deferred tax positions are expected to be affected by the Corona pandemic. It goes without saying that current tax positions are likely to be affected. In this respect we note that, as the financial statements form in most cases the basis for the Dutch corporate income tax return of an entity, choices made for IFRS purposes could also affect to some extent the current Dutch corporate income tax position of the entity.

On 27 March 2020, IFRS Foundation and the IASB together issued a document on the application of IFRS 9 (ECLs) in the light of the coronavirus uncertainty. For further details we refer to the news section of the [IFRS organization website](#).

Lease concessions

On April 10, IASB issued a [document](#) on application of IFRS 16 in relation to lease concessions granted/received as a result of the Corona crisis. The document is to support a consistent application of IFRS Standards, and highlights in an educational manner the relevant requirements within IFRS 16 and other standards. Relevant is to determine whether a change in lease payments results in a "lease modification" or not.

The Dutch State secretary of Finance issued on 10 December last a decree (nr. 2019-166072, Staatscourant 2019) in which he considers the IFRS 16 treatment for operational leases for Dutch tax purposes in more detail. Based on the assumption that IFRS 16, as result of the imputation of an interest component, causes higher annual expenses in earlier years and lower in subsequent years, in his view, IFRS 16 may not be applied and is to be ignored for Dutch profit tax purposes. For Dutch profit tax purposes only the actual lease incurred for a year is considered relevant when determining the taxable result for that year.

As IFRS 16 is to be ignored for Dutch tax purposes in relation to operational leases, differences occur between commercial accounting and tax, potentially giving cause to recognition of deferred positions for accounting purposes. Effects resulting from lease concessions granted/received as a result of the Corona crisis are to be taken into account.

Future prospects

14. Corona provision

In the corporate income tax return, the loss for a year may be offset against the profit of the previous year (carry back). A loss for 2020 can therefore be set off against the profit for 2019, but this can in principle only be done after a tax return for 2020 has been filed and a final assessment for 2019 is imposed. It may therefore take a long time before the 2020 loss can actually be utilized. This can lead to liquidity problems. Therefore, in as far as it relates to the corona crisis, the expected loss for 2020 may already be deducted in 2019. From a tax point of view, this is done by recognizing a so-called 'corona provision' for tax purposes in 2019. This provision may not exceed the profit for 2019 and, in addition, may not exceed the expected loss in 2020 as a result of the corona crisis.

The exact details of the corona provision are still to be announced.

The corona reserve intends to improve the cash position of taxpayers by effectively expediting the carry back of the expected Corona related FY2020 loss to FY2019. As the 'Corona allowance' is solely applied for tax purposes and not for accounting purposes, we advise to consider the effects of recognition of such reserve for tax accounting purposes.

UPDATE 14/05/20: In order to improve the liquidity position for certain taxpayers, the State Secretary of Finance has approved that - in order to improve the liquidity position for taxpayers - taxpayers can form a so-called 'corona reserve'. With such a reserve, an expected loss in 2020 can already be taken into account in the CIT return for the year 2019. So this leads to a cash flow advantage without having to file the 2020 CIT return first and wait for the corresponding (final) assessment and confirmation of the reported loss. The conditions for establishing this corona reserve are as follows:

- a) There is an expected 'corona-related' loss in the financial year 2020. This is the expected loss for the financial year 2020 insofar as this loss relates to the corona crisis. This is the case, for example, if there is a loss due to loss of turnover as a result of the corona measures taken by the government.
- b) The expected corona-related loss cannot exceed the total loss expected by the taxpayer for the financial year 2020. It is not possible to create a corona reserve if

it is estimated that a positive taxable profit will be enjoyed for the financial year 2020. The taxpayer itself makes the best possible estimate of the expected amount of the corona related loss.

- c) The allocation to the corona reserve in the financial year 2019 shall not exceed the profit for the financial year 2019 that would apply without this reserve.
- d) The reserve will be fully included in the profit in the financial year 2020.

Note: reporting a corona reserve may affect the application of other CIT regulations. The State Secretary has hereby indicated that: "no supporting measures will be taken in respect of any overlap with other CIT regulations, as a result of which the regular tax consequences will arise". This should therefore be taken into account.

Broken book years

Taxpayers who have a financial year that is not equal to the calendar year may form a corona reserve in their tax books in the financial year ending in the period from 1 January 2019 up to and including 31 March 2020. In that case, the provision will be fully included in the profit in the financial year following the financial year in which the reserve was formed. The conditions for approval shall apply accordingly.

CIT return for the year 2019

The first deadline for submitting the CIT return for 2019 is 1 June 2020 (i.e. without additional extension). Should you wish to submit the CIT return in the near future we recommend to pay attention to whether or not this corona reserve can be reported. If the CIT return for 2019 will be submitted later, it could be considered to file a request to reduce the provisional CIT assessment for 2019.

Tax accounting

The corona reserve aims to improve the liquidity position of taxpayers by effectively offsetting losses incurred in 2020 and corona related losses to 2019. Since the reserve is formed only in the tax books and not in the financial statements, we advise you to consider the tax accounting consequences.

15. State aid

EU Commissioner Margrethe Vestager is working on a scheme for the hard hit sectors such as tourism and the hospitality industry. The proposed scheme (‘Vestager scheme’) is part of the European Commission’s approval that will allow EU countries to provide extra money into their economies without punitive measures. The Commission will use “all possible flexibility” in the existing EU rules as a consequence of the exceptional circumstances. This will allow public authorities to support and

compensate businesses and citizens. The flexibility concerns both state aid and national budget rules. In addition, the Commission requests banks to be as flexible as possible in providing loans to entrepreneurs affected by the coronavirus.

Under the application of article 107(3) TFEU Member States are allowed to support undertakings under the following conditions:

- a) the aid does not exceed EUR 800,000 per undertaking in the form of direct grants, repayable advances, tax or payments advantages; all figures used must be gross, that is, before any deduction of tax or other charge;
- b) the aid is granted on the basis of a scheme with an estimated budget;
- c) the aid may be granted to undertakings that were not in financial difficulties (within the meaning of the General Block Exemption Regulation) on 31 December 2019; it may be granted to undertakings that are not in difficulty and/or to undertakings that were not in difficulty on 31 December 2019, but that faced difficulties or entered in difficulty thereafter as a result of the coronavirus outbreak;
- d) the aid is granted no later than 31 December 2020;
- e) the aid granted to undertakings active in the processing and marketing of agricultural products is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.

Note: Specific additional conditions apply for agricultural, fisheries and aquacultural sectors.

Public guarantees on loans. The announcement outlines specific conditions regarding the amount of the principle loan and the limits on the public guarantee.

Subsidised interest on loans. Loans may be granted at reduced interest rates. The announcement outlines specific conditions concerning the amount of the loan.

Furthermore, aid in the form of guarantees and loans may also be channelled through credit institutions or other financial institutions. However, these institutions should, to the largest extent possible, pass on the advantages of the public guarantee or subsidised interest rates to the final beneficiaries.

It is still yet to be determined to what extent local measures of the member states qualify as (not allowed) State Aid under the application of article 107(1) TFEU.

For further information, please visit the website of the [EU commission](#).

16. M&A aspects

The investment climate is very uncertain at the moment. In this context, there are rumors from the market that banks have closed their 'offices' for requesting acquisition financing. It is unclear for how long this will last. The coronavirus is putting a lot of

companies and entrepreneurs under a lot of pressure. M&A and due diligence aspects to pay specific attention to during this period are:

- Turnover and sales performance;
 - Are the current income projections still realistic, are there any different projections for in the case of worse or better economic conditions;
 - Has such an adjustment of such projections impact on the EBITDA and thus on the value of the company.
- Risk of insolvency and breach of contractual obligations;
 - Can the impact of the coronavirus ensure that a target fulfills its obligations (e.g. SPA);
 - Are there any specific clauses in contracts (e.g. SPA) that exclude or may exclude the impact of unforeseen events from contractual obligations;
 - Has the company taken out appropriate insurance to cover any potential risk.
- Future planning of the company
 - Has the company taken precautions to ensure continuity (e.g. proper support of its employees / customers etc.).

17. Transfer pricing

The coronavirus can also have an impact the transfer pricing within a group of companies. This can result in losses for a group as such, but also for entities with routine activities can generate negative results.

In this context, it is recommended to analyse where such losses should be allocated to (depending on the contracts and the transfer pricing policy) and also to document the impact of the coronavirus on the group. Such documentation may be(come) relevant for communication with the Dutch Tax Authorities at a later moment in time. For example, when finalising and filing the corporate income tax return in which the impact of the corona virus is to be reported.

18. Global mobility

Employees who work in a country other than their country of residence may be affected by working from a wage tax perspective. Under certain circumstances, the country in which the employee resides may obtain the right to levy tax on a part of the wage. In case a 'salary-split' applies for employees, it is advisable to keep accurate records to ensure correct processing. With regard to all the aforementioned points, we advise you to contact swiftly one of your Atlas advisors.

19. Interest and mortgage repayments

Home owners who have difficulties with paying their mortgage due to the corona crisis can contact their bank to come to a workable for a solution. Banks offer tailor-made

solutions so that the best suitable solution is offered for every customer situation. It is no longer requirement that a mortgage holiday is settled before year-end 2020 or 2021 as such a holiday may be allocated to the remaining mortgage repayment terms etc.

For homeowners who are unable to bear the burden of a mortgage with National Mortgage Guarantee (NHG) due to the corona crisis, additional provisions apply.

UPDATE 14/05/20: During a 'payment break', a taxpayer does not have to pay (part of) the interest and repayment for a certain period of time.

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