

MARCH 2020

COVID 19

EXCEPTIONAL AND TEMPORARY REGIME FOR COMPLIANCE WITH TAX OBLIGATIONS AND SOCIAL CONTRIBUTIONS

Decree-Law no. 10-F/2020¹ of 26th March was published and came into force on 27th March, with effect from 12th March. This Decree-Law was rectified by the Rectification Statement no. 13/2020, of 28th March.

In order to ensure liquidity for companies and preserve their activity and jobs, the law has made the payment of taxes and social contributions more flexible, while maintaining the obligation for companies to pay contributions.

The following measures were accordingly approved:

I. Easing of VAT payments and IRS (personal income tax) and IRC (corporate income tax) withholding due in the second quarter of 2020

In the second quarter of 2020, entities (i) that with a turnover² of up to €10,000,000.00 in 2018, (ii) which activity falls within the sectors closed pursuant to Article 7 of Decree No. 2-A/2020, of 20th March, or (iii) with activity started on or after 1st January 2019, may pay IRS and IRC withholding as well as VAT:

- a) On the legally prescribed dates; or
- b) In three or six, interest-free, monthly instalments.

The monthly instalments in installment plans are due as follows:

- a) The first instalment, on the date the payment obligation in question is due;
- b) The remaining monthly instalments on the same date of the subsequent months.

Applications for payments in monthly instalments shall be submitted electronically by the deadline for voluntary payment. These instalment plans shall not be dependent on the provision of a guarantee.

¹ To all matters not regulated in this statute shall apply the rules regarding payments in instalments provided for in Decree-Law 492/88, of 30th December, in its current wording, with the necessary adjustments.

² As defined in Article 143 of the IRC Code.

Companies to which this scheme does not automatically apply may also apply for instalment payments by stating and demonstrating, through E-fatura, a 20% invoicing reduction in the average of the three months preceding the month in which this obligation exists, compared to the same period of the previous year - to be demonstrated through certification by a statutory auditor or certified accountant.

II. Deferred payment of contributions due by employers and self-employed workers

Employers in the private and social sectors are covered by the deferral of payment of contributions where:

- a) There are less than 50 workers;
- b) There are between 50 and 249 workers, provided there is a drop of at least 20% in turnover, reported through E-fatura, in March, April and May 2020, compared to the same period of the previous year or, for those which started business less than 12 months ago, compared to the average of activity period elapsed;
- c) There is a total of 250 or more employees, provided there is a drop of at least 20 % in turnover, reported through E-fatura, in March, April and May 2020, compared to the same period of the previous year or, for those which started business less than 12 months ago, compared to the average of the activity period elapsed, and fall within one of the following precepts:
 - (i) Are a private charitable or similar institution;
 - ii) Those employers' activity is within the scope of the sectors closed pursuant to Decree No. 2-A/2020 of 20th March, or within the aviation and tourism sectors, in relation to the establishment or company effectively closed;
 - iii) Those employers' activity has been suspended, by legislative or administrative determination, under the terms of Decree-Law no. 10-A/2020, of 13th March, as currently worded, the Civil Protection Framework Law, approved by Law no. 27/2006, of 3th July, as currently worded, or the Framework Law on Health, approved by Law no. 95/2019, of 4th September, regarding the establishment or company effectively closed.

The number of employees is assessed in reference to the wage contribution returns from February 2020.

The beneficiary employers may be subject to inspection at any time by the competent public authorities and must prove the facts on which the deferral depends, in addition to electronic verification before the Tax Authority.

The employer's contributions (to the extent that contributions, deducted from employees, will always have to be paid) due in March, April and May 2020 may be paid as follows:

- a) One third of the contributions is paid in the month in which they are due;
- b) The amount of the remaining two thirds shall be paid in equal successive interest-free instalments in July, August and September 2020 or between July and December 2020.

For employers who have already made full payment of their contributions due in March 2020, the contributions eligible for deferment are those for April, May and June 2020.

Deferral of payment of contributions does need not to be requested. However, in July 2020, employers must state on the *Segurança Social Directa* website which of the payment periods they intend to use (three or six months).

Also in July 2020, the employer will demonstrate the invoicing-related requirements of the instalment plan, together with the certification of the company's certified accountant.

The deferral of contributions also applies to self-employed workers, for the months of April, May and June 2020, and contributions may be paid as described above.

Failure to pay one third of contributions in the month in which they are due (initial instalment) determines the immediate termination of these benefits. On the other hand, failure to meet the requirements for deferred payment of contributions results in all the outstanding instalments being due as well as in the cessation of the exemption of interest.

III. Instalment plans and suspension of proceedings

The judicial holiday regime shall apply to ongoing instalment plans, without prejudice to the fact that they may continue to be promptly fulfilled. Tax enforcement proceedings shall be suspended until 30th June 2020, even if the exception regime is terminated before that date.

Ongoing current instalment plans for social security debts outside the scope of the enforcement procedures are also suspended for the same period, without prejudice of being

able to continue to be promptly fulfilled. In this case, after 30th June 2020, the management board of the competent social security institution may decide to extend the period of suspension of the instalment plans referred to in the preceding paragraph, agreed with private social welfare institutions under cooperation agreements.

This statute also approved the following measures:

IV. Extraordinary extension of social benefits

There will be an extraordinary extension of unemployment benefits and all social security benefits guaranteeing minimum subsistence until 30th June 2020, where the period for granting or renewal expires before that date.

Reassessments of the conditions for maintaining social security benefits (until 30th June 2020) are also suspended.

V. Social Security payments - transitory provision

The deadline for the payment of contributions and levies due in March 2020 was, exceptionally, the 31th March 2020.

We will update this information as and when legislative acts amending or supplementing the above are published.

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