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Antivirus programme update

At the beginning of April, the Ministry of Labour and Social Affairs launched the "Antivirus" programme, enabling employers to get a partial refund for the compensations for salaries they had to pay to their employees due to certain impediments to work. The programme was recently extended by the Government to include the month of May. Meanwhile, the Ministry of Labour and Social Affairs has released several updates to the employer guidelines which contain detailed conditions for receiving this refund. The latest developments are summarised below.



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The current fourth update of the guidelines deals with prolongation of the period of eligibility of expenditures from 12 March 2020 (inclusive) to 31 May 2020. The prolongation applies both to new and previously concluded agreements. The end date for eligibility of expenses has been postponed automatically and requires no amendment to the agreement. Consequently, where the agreement specifies 30 April 2020 as the end date of the period for which the refund is requested, the employer may also apply for the month of May. Further extension of the programme might be approved by the Government, depending on the development of the epidemiological and economic situation.

The latest version of the guidelines responds to the employers' frequently asked question as to whether or not the refund is available for members of the governing body, i.e. directors. The Antivirus programme provides a partial refund of the employer's costs of the statutory compensation for salaries paid to employees during the existence of impediments to work, and therefore does not, as a rule, apply to the discharge of the office of director. The refund under the Antivirus programme may only be granted for directors who are simultaneously employed with the company under an employment contract. The guidelines clarify that the Ministry of Labour and Social Affairs does not consider a contract signed by the same person on both sides (i.e. both for the employer and for the employee) to be a valid employment contract.

Foreign employers are also entitled to support from the Antivirus programme according to the guidelines; this is provided that they have employees with contracts governed by the Czech laws and meet other conditions of the Antivirus programme. This is true even of employers without a Czech identification number, who are asked to give their social security number in the relevant on-line application instead. Foreign employers must, however, open an account with a Czech bank because the refund cannot be remitted to a foreign bank's account.

While the legislation concerning the Antivirus programme is constantly changing, the Ministry of Labour and Social Affairs does not announce the release of updates of the employer guidelines in any way. We therefore monitor the situation on a daily basis. If you are interested in regular monitoring, please do not hesitate to contact us.

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Legislative news in the area of employment

We present a summary of the most recent employment and social security legislation in connection with the coronavirus pandemic.



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The Chamber of Deputies has approved a proposal of the Ministry of Labour and Social Affairs for the protection of employees in case of their employer's insolvency. This proposal was necessitated by the judiciary lex COVID, laying down that insolvency petitions filed by creditors in the period between 24 April and 31 August 2020 will be disregarded. This measure would prevent employees from claiming outstanding wages through the Labour Office of the Czech Republic. The draft legislative amendment grants employees of an insolvent employer the right to claim payment of their earnings under virtually the same conditions as before the effective date of the judiciary lex COVID. The Chamber of Deputies has further adopted an amendment preventing the Labour Office of the Czech Republic from collecting owed amounts from employers during a period of three months of expiry of the judiciary lex COVID. The draft must now be passed by the Senate and signed by the President.

The Government has further approved a proposal of the Ministry of Labour and Social Affairs allowing employers to postpone social insurance payments (24.8%) for the months of May, June and July until 20 October, which means that they would only have to deduct from gross wages the social insurance premiums levied for their employees (6.5%). Among further changes proposed is mandatory electronic submission of overviews regarding the assessment base and amounts of social insurance premiums by employers to the competent social security administration body and abolishment of cash payments of the premiums. The proposed legislation must now be discussed by the Parliament in the state of legislative emergency. The topic is addressed in more detail in this article.

The Deputies also submitted to the Government for approval an amendment to the Sickness Insurance Act, proposing a waiver of the requirement to submit a proof of school closure to obtain a carer's allowance in cases where schools are closed by virtue of a general extraordinary measure issued by the competent authority and applicable in the Czech Republic as a whole.

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Reduction of penalties for late payment of social security premiums by employers

The Government approved a legislative proposal reducing penalties for late payment of social security premiums and contributions to the State employment policy by the employer. The proposed measure aims to improve the employers' cash flow by postponing their liabilities towards the State.



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The draft legislation concerns premiums levied by employers in the amount of 24.8% of their employees' wages (employer's premiums) payable for the calendar months of May to July 2020. If the due premium is paid not later than by 20 October 2020, the employer will be required to pay only 20% of the standard penalty for late payment stipulated by the Insurance Premiums Act. The reduced penalty will thus correspond to approx. 4% interest rate per annum.

To obtain the reduction, the employer must pay the part of the social security premiums levied for employees properly and in due time, i.e. in the amount set out in the overview for the relevant month and by the 20th day of the following calendar month. Employers are thus still obliged to submit overviews and pay premiums for their employees by the regular deadlines.

On the other hand, the Government's proposal does not require employers to prove a negative impact of the COVID-19 extraordinary measures, and the reduced penalty for late payment of the employers' premiums is thus available to all employers.

Any outstanding premiums and penalties in the period between 21 June and 20 October 2020 will not be considered arrears in premiums and penalties for the purposes of confirming the employer's good standing, which means that postponement of payment of the employer's premiums for the months of May to July until 20 October 2020 should not prevent them from obtaining a possible refund under the Antivirus programme.

The amendment further introduces mandatory electronic submission of overviews (save for certain exceptions, e.g. technical difficulties in submitting an electronic overview) and cashless payments of premiums. The proposed amendment must be approved by the Parliament and signed by the President.

Penalties for late payment of health insurance premiums for the period from March to August 2020 have already been waived by an amendment to the Public Health Insurance Premiums Act, on condition that the premiums are paid not later than by 21 September 2020. The waiver of penalties for health insurance premiums should apply to late payment of both employer's and employees' premiums.

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European Commission proposes deferring of DAC 6 deadlines and postponement of other taxation rules

In connection with the Coronavirus pandemic, the European Commission has approved a proposal deferring certain deadlines for exchange of information among Member States on certain cross-border tax planning arrangements under the DAC 6 Directive by three months, and Member States will also have three additional months to exchange information on reportable financial accounts. The Commission has decided to postpone the entry into application of the VAT e-commerce package by 6 months.



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Reporting duty under DAC 6

The Commission proposes the following changes:

- Deferring the deadline for the first exchange of information among the Member States from 31 October 2020 to 31 January 2021.
- Deferring the start of the 30-day period for notification of cross-border arrangements by tax entities relating to the period between 1 July and 30 September 2020, where the 30-day period for notification of all such arrangements will commence only on 1 October 2020.
- Deferring the deadline for notification of cross-border arrangements where the first step was made between 25 June 2018 and 30 June 2020 by three months, i.e. from 31 August to 30 November 2020

Exchange of information on financial accounts

The Commission proposes to defer the deadline for exchange of information on reportable financial accounts (CRS/GATCA reporting under DAC 2) by three months, i.e. until 31 December 2020. The US tax administration (IRC) has already deferred the deadline for the FATCA information exchange for 2019 until the end of 2020.

Both these deferrals are relevant for the exchange of information between the Czech Republic and foreign tax administrations. The reporting deadline for Czech financial institutions follows from the International Exchange of Information Act and has thus not been deferred automatically in this regard. This means that Czech financial institutions will be required to submit their CRS/GATCA and FATCA reports by 30 July 2020 unless the Ministry of Finance defers the deadline accordingly.
Given the uncertain development of the COVID-19 pandemic, the proposed initiative allows the Commission to defer the deadline for the submission and exchange of information (even under DAC 6) once more by up to three

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months.

E-commerce

The Commission further proposes postponement of the entry into application of the VAT e-commerce package by 6 months. The rules would thus apply from 1 July 2021.

The Commission proposals must be approved by ECOFIN and the European Parliament, and only then can they be reflected in the Czech legislation. Laws implementing DAC 6 and the new e-commerce rules have yet to be adopted and the changes will thus have to be introduced by virtue of Deputies' motions or by special regulations.

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