

The impact of the coronavirus on employment

RSM BELGIUM INFORMS YOU

As a result of the measures taken by the Belgian government regarding the spread of the coronavirus, you may have a number of questions regarding possible absence of employees and/or payment difficulties.

Obligations within the framework of the Welfare Act

First of all, you have to take into account that under the Welfare Act you have to organise the work in such a way that the employees can carry out their work in decent conditions. It is therefore advisable to take a number of preventive measures. However, you cannot demand or impose declarations of suitability or examinations on employees, nor deny them access to work on the basis of a suspicion of illness. You can only advise them to contact their general practitioner.

The employer must avoid unnecessary missions and draw the employee's attention to the recommendations of the FPS Public Health. When organising missions abroad, the employer must certainly pay attention to the travel recommendations of the FPS Foreign Affairs. In the event of negative travel advice, we advise against sending employees to the areas concerned.

Organization of telework

If you are considering temporarily employing your employees in other premises or having them work at home, the agreement of the employees is required, given that this is a change to an essential employment condition. If not, you run the risk that the employee invokes this change as grounds for termination of the employment contract. However, you can unilaterally make adjustments to additional employment conditions (work processes, etc.) that are not included in the employment contract, provided that these adjustments clearly and necessarily originate from the safeguarding of the health of the employees in the face of the pandemic. The changes may also only be temporary (in proportion to what is necessary in the light of the pandemic) and may not have a major impact. It is recommended that the prevention advisor be involved in determining these changes.

As a result of the measures taken by the Belgian government and in force since Wednesday, March 18th, 2020 at noon, everyone should stay at home as much as possible and only essential journeys are allowed. In principle, employees are still allowed to go to work, but teleworking or working from home must become the rule and this for every function or position which allows to do so. Companies in which teleworking is not possible must take precautionary measures in view of "social distancing" and be able to guarantee that sufficient distance between individuals is kept. Companies that do not respect or cannot guarantee compliance of these rules risk heavy fines or even closure.

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Absence of employees – force majeure

As always in the event of illness, the employee is, as a rule, in possession of a valid certificate of incapacity for work.

However, if an employee has been placed in quarantine without a certificate of incapacity for work because of the corona virus or cannot return home due to a cancellation of his return flight from abroad, the existence of force majeure can be invoked: a sudden unforeseen event, independent of the will of the parties, which makes the agreement temporarily and completely impossible. This, however, results in the absence of pay.

If desired, the employee may choose, subject to the agreement of his employer, to convert these days into days off (impossible in the event of a collective holiday scheme in the company) and thus regain entitlement to his salary.

Temporary unemployment

Under certain conditions, the employee can benefit from benefits for temporary unemployment due to force majeure paid by the NEO. In this respect, the employer must make an electronic declaration to the unemployment office of the place of operation as soon as possible and submit a written application for recognition of the force majeure with a detailed explanation that the unemployment was caused by the coronavirus. At present, temporary unemployment in case of force majeure due to the coronavirus is foreseen until 30 June 2020.

Also, if you as an employer are unable to employ your staff due to the economic consequences of the coronavirus, you may be able to place them in temporary unemployment for economic reasons, subject to compliance with the aforementioned formalities.

The benefits for temporary unemployment are increased from 65% of the capped salary to 70% and this for a period of 3 months.

Please be informed that RSM Belgium can assist you and can take care of all required formalities in this regard as your proxy holder.

Social elections

Considering the fact that the corona crisis disrupts the normal functioning of many companies and sectors, the proper organisation of social elections is also compromised. It was therefore decided to postpone the social elections. In concrete terms, this means that the electoral procedure will be suspended in all sectors and will be continued at a later date, probably after the summer.

RSM Belgium can support you in this and offer the necessary guidance and advice.

Immigration – requesting work permits

Also with respect to immigration, the Economic Migration Service has taken a number of measures to ensure continuity and to provide a solution to a number of problems resulting directly or indirectly from the measures taken as a result of the corona crisis. For example, applications are preferably submitted by e-mail. In addition, periods of temporary unemployment will be taken into account when it is verified whether the salary requirement has been met. Should you have any questions in this respect, RSM Belgium is at your service.

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Support measures NSSO, NISSE & FPS Finance

If you have payment problems due to the coronavirus, you can obtain a postponement of payment or a repayment plan for the NSSO contributions of the 1st and 2nd quarter. The coronavirus will be accepted as a factor for settlement. Self-employed persons can also obtain deferment or exemption from payment of social security contributions towards the NISSE in this context.

For the self-employed, the following additional decisions have been taken, if there is a demonstrable link with the corona virus:

- reduction of the provisional contributions: if the income is lower than the amount used as a basis for the calculation, they will be able to request a reduction;
- possibility to obtain a replacement income (bridging allowance).

As far as the payment of withholding tax is concerned, companies are automatically granted a 2 month delay of payment without the consequences of fines, penalties or late payment interest charges.

In concrete terms, this means the following:


- The payment due date for the monthly declaration for February 2020 will be extended until May 13th, 2020;
- The payment due date for the monthly declaration for March 2020 will be extended until June 15th, 2020;
- The payment due date for the first quarterly declaration of 2020 is extended until June 15th, 2020.

Also for the payment of personal income tax (both for residents and non-residents), there is foreseen in an automatic delay of payment term of 2 months on top of the normal payment term, without any charge for late payment interest. This measure only applies to the tax settlements relating to assessment year 2019, provided that the assessments are established as from March 12th, 2020 onwards.

Next to the hereabove mentioned delays of payment for several kinds of taxes, the FPS Finance creates a number of support measures for natural or legal persons holding a Belgian enterprise number who are experiencing difficulties as a result of the spread of the coronavirus.

The firms concerned must be able to demonstrate these difficulties (e.g. a decrease in turnover, a significant decrease in orders being placed and/or reservations being made, consequences of a 'chain reaction' with partner firms, etc.), as the aid cannot be granted to firms with structural payment difficulties independent of the corona virus. In addition, the taxpayer must have fulfilled its compliance obligations (i.e. all returns must be submitted on time).

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With regards to withholding tax, but also VAT, personal income tax, corporation tax and legal entity tax, the following measures can be applied for, if the debts are not the result of fraud:

- granting of repayment plans;
- waiver of late payment interest;
- waiver of fines imposed for non-payment.

You must submit your reasoned application no later than June 30th, 2020 using a form made available by the FPS Finance. Only one application can be submitted per debt, applicable to all measures, at the time of receipt of a notice of assessment or payment notice.

The support measures will be withdrawn in the event of non-compliance with the granted repayment plan, except if the debtor contacts the administration in good time, and in the event of collective insolvency proceedings (bankruptcy, judicial reorganisation, etc.).

If you would like to receive additional information on this matter or assistance, the Tax team of RSM Belgium is at your disposal (interpay@rsmbelgium.be).

RSM Intertax

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