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DETAILS TEMPORARY ARRANGEMENT COMPENSATION LABOR COSTS RULES ARE PUBLISHED

It was announced recently that the 'temporary arrangement compensation labor costs' ("NOW") will replace the 'part time unemployment benefits measure' which was terminated. The NOW legislation and additional guidance has been published on March 31, 2020. We hereby inform you on the most important aspects of the NOW to address the numerous questions that were raised in anticipation of the legislation that was published yesterday.

The NOW in a nutshell

The NOW is a measure to compensate employers for the cost of labor that can be requested through the 'Executive Institute for Employee's Insurances' ("UWV"). The compensation that can be applied for is subject to the loss of turnover. An employer can only qualify for a compensation in situations whereby the turnover is reduced with at least 20%. The percentage of the compensation is equal to 90% of the percentage of the decrease in turnover. As an example this means that the compensation is 54% of the total wages when the turnover decreased with 60% ($90\% \times 60\%$).

Turnover loss

The turnover loss should manifest during a reference period of 3 months whereby the period starts on the first day of the month March, April or May 2020. The loss in turnover is determined by comparing the turnover generated in the applicable reference period to a quarter of the total turnover in 2019. For the purpose of this comparison subsidies or other government funded benefits are considered as turnover.

Moreover, for companies that are part of a group, the turnover loss is determined at level of the group and not

the individual company. Additional rules apply to Dutch resident companies that are part of an international group. In this instance, different rules apply to determine the loss in turnover.

Total wages

The wages that are used as a starting point to determine the compensation under application of the NOW are the wage paid in January 2020. For the purpose of the NOW wages are defined as the wages paid for social security purposes to employees that are employed. This can also include the wages paid to employees with a flexible contract. Under conditions the salary of shareholders can also be eligible for compensation but we expect that this salary will be excluded in most situations.

A mark up of 30% is applied to the wages of January 2020 to include employer costs such as holiday allowance, premiums for pension and the social security contributions as much as possible. This is a fixed percentage which will not be based on the individual costs of employers. Finally, for the purpose of the eligible wages a maximum applies of EUR 9,538 per employee.



Payment NOW compensation

It is expected that requests to apply for the benefits of the NOW can be filed electronically with the UWV as from April 6, 2020. The UWV will pay an advance of 80% of the requested compensation which is based on the calculation of the turnover loss that should be filed together with the request. The goal is that the UWV will pay the first term of the advance within 2 to 4 weeks. The remainder of the advance will be paid in two equal terms. This means that the advance will effectively be paid in 3 equal terms.

Within 24 weeks after the period for which the compensation is paid, the employer is required to request for the final compensation. The final compensation is subject to the actual turnover loss. The employer will need to inform the UWV by providing the calculation of the actual turnover loss. In principle, the calculation of the turnover loss needs to be audited by a certified accountant.

The UWV will determine the final compensation within 22 weeks after receipt of the request for the final compensation. Once a final decision is made by the UWV the difference between the preliminary compensation and the final compensation will be settled.

Other conditions

In addition to the requirements above the following conditions need to be satisfied to apply the NOW:

- The employer has the obligation to keep the total wages at the same level as much as possible
- The employer is not allowed to apply for a permit to

terminate employment contracts on the basis of business and economic reasons during the period for which the NOW is applied. If such permit is requested, an adjustment will be applied to the NOW benefits by adjusting the eligible wages which has a negative impact on the total compensation

- The employer is required to use the NOW compensation only for the payment of wages
- The employer is required to inform the labor council or, if there is no labor council, the employees about the application of the NOW.

Finally, it is important to note that the NOW legislation includes several anti-abuse provisions.

How can RSM help

RSM can assist you on short notice to determine the eligibility of the NOW benefits in your specific situation. We would also be happy to assist with the application of the NOW request and at a later stage with an audit of the final calculation to substantiate the actual revenue loss.

Please contact your trusted RSM advisor if assistance is needed.