

## **Calan Legal Update on “Anti-crisis shield”**

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## Introduction

Polish government has announced last week the measures that will be taken in order to alleviate the crisis caused by epidemic. Proposed measures are called “Anti-crisis shield” and consists of five pillars:

- I “Defense of employees”
- II “Entrepreneurs”
- III “Healthcare protection”
- IV “Strengthening the financial system”
- V “Public investments”.

This government project has been adopted by Parliament on Friday 31.03.2020<sup>1</sup> and signed by President and published in Journal of Laws of the Republic of Poland.

This legal update covers only the most important of the adopted measures and describe them generally. Should you wish more detailed analysis of the given measure and tailored legal solution please do not hesitate to contact Calan directly.

## Defense of employees

### **Wage subsidies: economic downtime and reduced work time (art. 15g)**

It has been announced that the state budget will cover part of employees’ salaries for the period of 3 months (or longer if Council of Ministers decides so) if entrepreneur who suffered from turnover drop due to COVOD-19 epidemic. The second part has to be covered by the employer. Civil law contractors (*zleceniobiorcy*) are also treated as employees for the purpose of this subsidies. There are two types of wage subsidies one connected with **economic downtime** and second connected with **reduced work time**. In both cases employer need to suffer from turnover drop of either 15% within 2 months’ time comparing to the same period from last year or of 25% within a month comparing to previous month.

In case of **economic downtime** (employees are unable work due to employers’ problems) employees’ remuneration may be lowered up to 50 % (but can’t be lower than minimum wage). State budget will finance the remaining part of the remuneration, but in the amount not higher than 50% of the minimum wage.

Employer whose turnover dropped by 15 % can **reduce the working time** of employees by 20% (but not less than ½ worktime and remuneration can’t be lower than minimum wage). In case of such work time reduction state budget will finance the remaining part of the remuneration up to the amount of 40 % of average monthly remuneration published by Statistical Office (GUS).

In order to benefit from any of these solutions employer needs to conclude agreement with trade unions or representation of the employees (in case of lack of trade unions) and submit this agreement within 5 days to Labor Inspection (PIP). This means that employees will be able to block employer’s efforts to reduce payroll costs.

Furthermore, wage subsidies will not refer to employee whose remuneration exceeds 300 % of average monthly remuneration published by GUS. As a result, remuneration of managers and some specialists won’t be subsidized by the state budget.

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<sup>1</sup> <http://dziennikustaw.gov.pl/D2020000056801.pdf>

**Wage subsidies: under agreement with District Governor (Starosta) (art. 15zzb)**

Under agreement concluded with District Governor employer may receive state aid to cover part of the employee's remuneration. State aid is limited to micro, small and medium entrepreneurs (SME)<sup>2</sup>. State aid varies according to the turnover drop within 2 months' time comparing to the same period from last year. If employer's turnover dropped by:

- 30% he may receive state aid up to 50% of employee's remuneration (but not more than 50% of minimum wage),
- 50% he may receive state aid up to 70% of employee's remuneration (but not more than 70% of minimum wage),
- 80% he may receive state aid up to 90% of employee's remuneration (but not more than 90% of minimum wage).

State aid may not exceed the amount of 90% of minimum wage. State aid may be granted for maximum 3 months, but Council of Ministers may extend this period. Employer who receives state aid needs to keep the same number of employees during the period of receiving the aid and for the subsequent period equal to that period. In case of breaching the obligation not to reduce employment the employer would be obliged to return the received state aid.

Employer may only benefit from one of the described above state aid options.

**Downtime subsidies**

Entrepreneurs and civil law contractor who are not covered by social security will be able to receive downtime subsidy in the amount of 80% of minimal wage.

**Additional childcare leaves for parents – employees**

Under art. 4 of special act on combating COVID-19<sup>3</sup> ("Anti-COV") an employee who looks after a child under 8 years of age due to closed schools is entitled to an additional 14 days of allowance care for the period of release from work. These 14 days period has ended on 25 March 2020.

New regulation extends allowance care for another 14 days and authorizes the Council of Ministers to indicate additional period during which allowance will be granted.

**Entrepreneurs****Work on Sundays**

New regulations enable to work on Sunday under condition that the work concerns activities related to trade, consisting of unloading, receiving and displaying important goods (necessities).

**Perpetual usufruct**

Deadline for payment of the perpetual usufruct shall be postponed till 30 June 2020.

**Real estate tax**

Municipality council will be able to:

- waive the entrepreneurs from the obligation to pay real estate tax for the part of 2020;

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<sup>2</sup> Mikro, mali i średni przedsiębiorcy w ROZUMIENIU ustawy z dnia 6 marca 2018 r. – Prawo przedsiębiorców

<sup>3</sup> Ustawa o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych. (Dz.U.2020.374)

- postpone the deadline for payment of real estate tax for April, May and June till 30 September 2020.

### **Prolongation fee for tax and social security contributions**

Prolongation fee won't be imposed during epidemic (and 30 days after epidemic) in case:

- taxpayer received positive decision on postponing the tax payment or breaking down tax debt into installments.
- payer received positive decision on postponing the social security contribution payment or breaking down social security contribution debt into installments (refers only to contributions due from 1 January 2020 onwards).

### **Expiry of lease agreements in shopping centers**

Rights and obligations stemming from lease agreements concerning commercial buildings with a sales area of over 2000 m<sup>2</sup> will expire if tenants' activity was restricted under Ordinance of Ministry of Health due to epidemic. Such tenants are entitled to submit the offer to landlord to extend the lease agreement under previous business conditions for the period of the restriction extended by 6 months. This offer may be submitted within 3 months after the restriction ceased to exist.

### **Labor law exceptions**

Employer whose turnover dropped by at least 15 % and who has paid all taxes and social security contributions as of end of III<sup>rd</sup> quarter of 2019 can benefit from exceptions connected with labor law:

- limitation of obligatory rest to 8 hours daily and 32 hours weekly;
- ability to conclude agreement with employees on implementing balanced working time with extension of the daily working time up to 12 hours;
- ability to conclude agreement with employees on introducing less favorable employment conditions that indicated in employment contract.

Obligation to conduct medical checks for employees is suspended during the epidemic. Employer and employee are obliged to organize the medical check not later than 60 days after the termination of the epidemic. Medical certificate issued for the employee expired after 7 March 2020 shall be still valid till 60 days after the end of epidemic.

### **New deadlines for reports and suspending proceedings**

Ministry of Finance would be able to:

- postpone the deadlines for preparation, approval and submission to respective authority financial statements by a way of Ordinance;
- suspend ongoing administrative proceedings and tax controls during the epidemic.

### **Taxpayers white list**

Taxpayer who paid the invoice to partner's bank account different that indicated in taxpayers white list will have 14 days instead of 3 days to inform tax office about this in order to avoid negative consequences.

### **Tailored Industry support**

Industries particularly affected by turnover drops are to receive dedicated forms of support, e.g. postponement of lease installment dates for the transport industry by 3 months, or extension to 180 days (from 30) of the deadline for the reimbursement of payments made to travel agencies for the purchase of trips that have been cancelled.

### **CIT**

There will be a possibility of settling this year's tax loss in full in the following year (without the 50% limit) was provided for, and in the case of companies affected by a drop in revenue by half or more, the possibility of settling this year's loss with CIT or PIT due for 2019 (up to PLN 5 million).

Payment of the tax on incomes from the real estate from March, April and May maybe postponed till 20 July 2020 if the taxpayer suffered from COVID-19 in given month and income dropped by at least 50% in given month.

Ministry of Finance has announced that the Ordinance will be issued<sup>4</sup> which will postpone the payment of CIT tax till 31 May 2020. This means that taxpayers will have additional 2 months to submit the tax return and pay tax.

Taxpayers whose revenues in subsequent tax periods will be lower by at least 50% compared to the same period of the previous tax year, in 2020 will not be obliged to apply regulations regarding the so-called bad income tax debts (*złe długi*) (which means including unpaid liabilities when calculating tax advances).

Taxpayer who donates (money or equipment) to public authorities to support the struggle with epidemic will be able to deduct from CIT up to 200% of the donation (if donation is granted in April 2020).

### **VAT**

The deadline for implementing digital tax application JPK\_V7 (combining a JPK with a VAT declaration) is postponed until July 1, 2020. Anti-crisis shield also provides for a delay in the entry into force of the new VAT matrix until July 1, 2020.

### **Reduction of other costs of consumer loan**

New regulation implements limitation on the maximum non-interests costs connected with consumer loans.

### **Credit holidays**

Banks can amend the repayment schedule for micro, small or medium entrepreneurs. Amendment can't worsen the condition of the debtor. Credit holidays can be applied to credits granted before 8 March 2020 and should include assessment of financial and economic standing of the debtor.

### **Online meeting of Management and Supervisory Boards**

Management Boards and Supervisory Boards of limited liability companies (sp. z o.o.) will be able to hold meetings and adopt resolutions by a way of electronic communication (without meeting in person).

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<sup>4</sup> <https://legislacja.gov.pl/projekt/12331660/katalog/12672333#12672333>

### **Suspension of the statute of limitations**

During epidemic statute of limitations provided by administrative and civil law are suspended. Periods related to administrative and civil law procedures do not start and those already started are suspended.

During epidemic periods connected with administrative, tax and court proceedings do not start and if started are suspended.

### **Healthcare protection**

The planned healthcare support includes an additional amount of PLN 7.5 billion to be allocated for infectious disease hospitals dedicated to combating COVID-19, protective materials, medical equipment.

### **Strengthening the financial system**

The banking sector is to be additionally stabilized by the redemption of bonds and the easing of mandatory reserves by the Central Bank of Poland (NBP), which is to translate into increased lending and ensuring the supply of cash available in retail trade.

### **Public investments**

The plans include creating a fund of PLN 30 billion for public investments, among others for local government roads, digitalization and modernization of schools and energy transformation.

### **Other amendments in the law**

#### **Maximum prices**

Authorization for Ministry of Health to implement maximum prices and margins connected with goods and services important for healthcare, safety of the people and/or living costs of households. Using prices or margins higher than maximum would be forbidden.

#### **Extension of lease agreement**

Lease agreement which ends before 30 June 2020 will be automatically extended to 30 June 2020 on the same conditions under unilateral statement of the tenant. Lease agreement can't be terminated, and rent can't be changed before 30 June 2020.

Calan does not bear responsibility for any actions taken basing on the document presented above as this should be treated informatively only.

In order to effectively use the benefits of the anti-crisis shield, entrepreneurs should conduct detailed analysis of its solutions. Some solutions may require taxpayers to prepare appropriate applications along with justifications and collect documents to confirm them.

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