



Stimati colaboratori,

Ordonanta de Urgenta a Guvernului nr. 29/18.03.2020 privind unele masuri economice si fiscal-bugetare, a fost publicata in M. Of. nr. 230/21.03.2020.

Va prezentam mai jos cateva masuri fiscale de interes.

Art I.

Pentru participantii la programul de sustinere a intreprinderilor mici și mijlocii - IMM INVEST ROMANIA, astfel cum este prevzut de OUG 110/2017, statul acorda garantii la credite si subventionarea dobanzilor aferente creditelor, astfel:

A.

a1) Garantii in limita maxima a 80% din valoarea finantarii (mai puțin dobanzile, comisioanele și spezele bancare aferente creditului garantat) pentru:

- Credite/linii de credit pentru investitii
- Credite/linii de credit pentru capital de lucru

Valoarea maxima cumulata a finantarilor garantate pentru un beneficiar este de 10.000.000 lei

Pentru finantarea capitalului de lucru per beneficiar = 5.000.000 lei dar nu poate depasi media cheltuielilor aferente capitalului de lucru din ultimii 2 ani fiscali

Pentru creditele de investitii, valoarea maxima a finantarii = 10.000.000 lei

Dear collaborators,

the Government Emergency Ordinance no. 29/18.03.2020 on some economic and fiscal-budgetary measures was published in the Official Gazette no. 230/21.03.2020.

Here are some tax measures of interest.

Art I.

For the participants in the support program for small and medium-sized enterprises - IMM INVEST ROMANIA, as provided by GEO 110/2017, the state grants guarantees on loans and subsidizing the interests related to loans, as follows:

A.

a1) Guarantees up to a maximum of 80 % of the amount of financing (excluding interest, commissions and bank charges relating to the guaranteed credit) for:

- Loans/credit lines for investments
- Loans/credit lines for working capital

The maximum cumulative amount of the guaranteed financing for a beneficiary is 10.000.000 lei.

To finance the working capital per beneficiary = 5.000.000 lei but cannot exceed the average of the working capital expenses over the last 2 fiscal years

For investment loans, the maximum funding value = 10.000.000 lei



In situatia in care un IMM, la data solicitarii creditului garantat de stat nu are depuse situatiile financiare, valoarea maxima a finantarii pentru credite/linii de credite pentru capitalul de lucru = dublul mediei cheltuielilor aferente capitalului de lucru din balantele lunare

a2) Subventii acordate de Ministerul Finantelor Publice („MFP”) in cota de de 100% pentru dobanzile aferente creditelor/liniilor de credit pentru finantarea capitalului de lucru și a creditelor pentru investitii din bugetul MFP - Actiuni Generale, de la titlul 55 «Alte transferuri», alineatul 55.01.46 «Transferuri catre intreprinderi in cadrul schemelor de ajutor de stat», in cadrul unei scheme de ajutor de stat/de minimis asociate acestui program.

B.

b1) Garantii pentru finantarea microintreprinderilor/intreprinderilor mici, in limita maxima a 90% din valoarea finantarii (mai putin dobanzile, comisioanele și spezele bancare) pentru credite/linii de credite, astfel:

- ✓ valoare maxima de 500.000 lei pentru microintreprinderi
- ✓ valoare 1.000.000 lei pentru intreprinderile mici

Valoarea maxima a fiecărei finantari per beneficiar nu poate depasi media cheltuielilor aferente capitalului de lucru din ultimii 2 ani fiscali, in limita pragurilor de mai sus.

In situatia in care o microintreprindere/intreprindere mica, la data solicitarii creditului garantat de stat nu are depuse situatiile financiare, valoarea maxima a finantarii pentru credite/linii de credite pentru capitalul de lucru= dublul

In the situation where an SME, at the date of applying for the state-guaranteed loan, has not submitted the financial statements, maximum funding amount for loans/lines of loans for working capital = twice the average of the working capital expenditure in the monthly balances

a2) Subsidies granted by the Ministry of Public Finance ("MPF") at the rate of 100% for the interests related to loans / credit lines to finance the working capital and investment credits from the MPF budget - General Actions under heading 55 "Other transfers", paragraph 55.01.46 "Transfers to enterprises within the state aid schemes", within a state / de minimis aid scheme associated with this program.

B.

b1) Guarantees for financing micro-enterprises/small enterprises up to a maximum of 90% of the amount of the financing (less interest, commissions and bank charges) for loans/credit lines, as follows:

- ✓ 500.000 lei maximum value for micro enterprise
- ✓ value 1.000.000 lei for small enterprises

The maximum amount of each financing per beneficiary may not exceed the average of the working capital expenditure over the last 2 fiscal years, within the above thresholds.

When a micro-enterprise/small enterprise, at the date of applying for the credit guaranteed by the state, the financial statements have not been filed, maximum funding amount for loans/lines of loans for working capital = twice the average of the working capital expenditure



mediei cheltuielilor aferente capitalului de lucru din balantele lunare

b2) Subventii acordate de Ministerul Finantelor Publice („MFP”) in cota de de 100% pentru dobanzile aferente creditelor/liniilor de credit pentru finantarea capitalului de lucru și a creditelor pentru investitii din bugetul MFP - Actiuni Generale, de la titlul 55 «Alte transferuri», alineatul 55.01.46 «Transferuri catre intreprinderi in cadrul schemelor de ajutor de stat», in cadrul unei scheme de ajutor de stat/de minimis asociate acestui program

Perioada de subventionare a dobanzii poate fi pana la pana la 31 martie 2021 si incepe sa curga de la momentul acordarii creditelor/liniilor de credit contractate dupa intrarea in vigoare a OUG 29/2020.

Subventionarea dobanzii este aprobata anual, prin lege, pentru primul an și pentru urmatorii 2 ani dar doar in conditiile in care creșterea economica estimata de Comisia Nationala de Strategie și Prognoza pentru aceasta perioada se situeaza sub nivelul celei inregistrate in anul 2020.

Subventionarea dobanzii se realizeaza respectand prevederile legislatiei din domeniul ajutorului de stat in vigoare.

Art. VI

S-a prelungit termenul pentru depunerea notificarii la organul fiscal pentru situatia in care debitorul doreste sa isi restructureze obligatiile bugetare, conform OUG no 6/2019, in sensul ca poate depune respectiva notificare in perioada perioada 1 februarie 2020 - 31 iulie 2020, sub sanctiunea decaderii din dreptul de a mai beneficia de

in the monthly balances

b2) Subsidies granted by the Ministry of Public Finance ("MPF") at the rate of 100% for the interests related to loans/credit lines to finance the working capital and investment credits from the MPF budget - General Actions under heading 55 "Other transfers", paragraph 55.01.46 "Transfers to enterprises within the state aid schemes", within a state / de minimis aid scheme associated with this program.

The period of subsidization of the interest may be until March 31-st, 2021 and begins to run from the moment of granting the credits / lines of credit contracted after the entry into force of GEO 29/2020.

The interest subsidy is approved annually, by law, for the first year and for the next 2 years, but only if the estimated economic growth of the National Strategy and Forecast Commission for this period is below the level registered in 2020.

The interest subsidy shall be carried out in accordance with the provisions of the state aid legislation in force.

Art . VI

The time limit for submitting the notification to the tax authority has been extended for the situation in which the debtor wishes to restructure its budgetary obligations, according to GEO 6/2019, in the sense that it can submit the respective notification during the period February 1-st, 2020 - July 31-st,



restructurarea obligatiilor bugetare; Solicitarea de restructurare poate depune pana la 30 octombrie 2020, sub sanctiunea decaderii.

Art. X

IMM-urile, care pe durata starii de urgenta isi intrerup activitatea total sau partial in baza deciziilor emise de autoritatile publice competente, potrivit legii, pe perioada starii de urgenta decretate și care detin certificatul de situatie de urgenta emis de Ministerul Economiei, Energiei și Mediului de Afaceri, beneficiaza de amanarea la plata pentru serviciile de utilitati - electricitate, gaze naturale, apa, servicii telefonice si de internet, precum si de amanarea la plata a chiriei pentru imobilul cu destinatie de sediu social si de sedii secundare.

Totodata, pentru contractele in derulare, altele decat cele de utilitati si chirie incheiate de IMM-uri, poate fi invocata forta majora impotriva acestora numai dupa incercarea de renegociere a contractului, incercare dovedita cu inscrisuri comunicate intre parti prin orice mijloc, inclusiv prin mijloace electronice, pentru adaptarea clauzelor acestora cu luarea in considerare a conditiilor exceptionale generate de starea de urgenta.

Se prezuma a fi caz de forta majora, „*impresurarea imprevizibila, absolut invincibila și inevitabila la care se refera art. 1.351 alin. (2) din Codul civil, care rezulta dintr-o actiune a autoritatilor in aplicarea masurilor impuse de prevenirea și combaterea pandemiei determinate de infectia cu coronavirusul COVID-19, care a afectat activitatea intreprinderii mici și mijlocii, afectare atestata*

2020, under the penalty of disqualifying from the right to benefit from the restructuring of budgetary obligations; The request for restructuring may be submitted until October 30-th, 2020, under the penalty of revocation.

Art. X

SMEs, which during the state of emergency interrupt their activity totally or partially based on the decisions issued by the competent public authorities, according to the law, during the decreed state of emergency and holding the emergency certificate issued by Ministry of Economy, Energy and Business Environment, benefits from deferment of payment for utilities - electricity, natural gas, water, telephone and internet services, as well as the postponement to pay the rent for the building intended for registered offices and secondary establishments.

Also for ongoing contracts other than utility and rent contracts concluded by SMEs, force majeure may be invoked against them only after an attempt to renegotiate the contract, test proven by documents communicated by any means between the parties, including by electronic means, to adapt their clauses taking into account exceptional emergency conditions.

Force majeure shall be presumed to be “*the unforeseeable circumstance, absolutely invincible and unavoidable, referred to in Article 1.351 (2) of the Civil Code, resulting from an action by the authorities in implementing the measures required by the prevention and control of the pandemic caused by the infection with COVID-19 coronavirus, which affected the activity of the small and medium-sized enterprise, as certified by the*



prin certificatul de situatie de urgenta.”

Prezumtia poate fi contestata de partea interesata prin orice mijloc de proba. Caracterul imprezibil se raporteaza la momentul nasterii raportului juridic afectat.

Nu sunt imprezibile masurile luate de autoritati in conformitate cu actul normativ care a instituit starea de urgenta.

Penalitatiile stipulate pentru intarzieri in executarea obligatiilor care decurg din contractele incheiate cu autoritatile publice de IMM-uri nu se datoreaza pentru durata starii de urgenta.

emergency certificate”.

The presumption may be challenged by the interested party by any means of proof. The unpredictable character is related to the moment of the birth of the affected legal report.

Measures taken by authorities in accordance with the regulatory act establishing the emergency state are not unforeseeable.

The penalties laid down for delays in the performance of obligations arising from contracts concluded with public authorities by SMEs are not due for the duration of the state of emergency.

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