

ROYAL DECREE - LAW 8/2020, MARCH 17, ON EXTRAORDINARY URGENT MEASURES TO CONFRONT THE ECONOMIC AND SOCIAL IMPACT OF COVID-19

As a continuation of the Royal Decree 463/2020 dated March 14 declaring the state of alarm for the management of the health crisis caused by COVID-19, on March 18 the Royal Decree – Law 8/2020, of March 17, has been published, on extraordinary urgent measures to give support to companies and businesses in order to confront the economic and social impact of COVID-19.

Below you will find the most significant measures in the tax, financial and labour areas due to the repercussion they are already having in the current complex scenario:

1.- DEADLINES FOR TAX PROCEDURES

- **Deadlines for the submission of tax declarations and self-assessments are not suspended.**
- **Deadlines applicable to procedures initiated before March 18, 2020, will be extended up to April 30, 2020:**
 - Deadlines for the payment of tax debts during voluntary and enforcement periods (art. 62. 2 y 5 LGT).
 - Deadlines for the deferment and instalment agreements already granted.
 - Deadlines related to auction procedures and allocation of assets (arts. 104.2 and 104 bis of the RGR).
 - Deadlines to answer requirements, collection proceedings and requests for information of fiscal importance, to file allegations before opening acts of said process or hearing proceedings, issued in tax application, sanction or declaration of invalidity procedures, reimbursement of undue taxes paid, rectification of material and revocation errors, which have not been concluded by March 18, 2020.
 - Additionally, from March 18, 2020 up to April 30, 2020 there will be no enforcement of guarantees on real estate within the administrative procedure of enforcement.
- **Deadlines of procedures initiated after March 18, 2020, will be extended up to May 20, 2020 (unless the deadline granted by the general rule is later, in which case this latter one will apply):**
 - Deadlines for the payment of tax debts during voluntary and enforcement periods (art. 62. 2 y 5 LGT).
 - Deadlines for the deferment and instalment agreements already granted.
 - Deadlines related to auction procedures and allocation of assets (arts. 104.2 and 104 bis of the RGR).

- Deadlines provided to answer requirements, collection proceedings, requests for information or opening proceedings for filing allegations or hearing proceedings which are communicated as of March 18, 2020.
- The procedure is considered as completed when the taxpayer responds to the requirement or request for information of fiscal importance or when allegations are filed.
- There are no changes regarding the deadlines to file allegations and respond to requirements in the case of the peculiarities foreseen by the customs regulations.
- The period from March 18, 2020 to April 30, 2020 will not be counted:
 - For the purpose of the maximum duration of the tax application, penalties and review procedures processed by the AEAT (although the Tax Administration can promote, order and carry out the essential procedures during said period).
 - Neither for the prescription deadlines of the rights of the Administration and the taxpayer (art. 66 *LGT*), nor for the expiration periods.
- **In the case of the appeals for reversal and economic-administrative procedures**, the resolutions that put an end to those procedures will be deemed notified, for the sole purpose of calculating the prescription periods (art. 66 *LGT*), when an attempt to notify the resolution between March 18 and April 30, 2020 can be proved. The term to file economic-administrative appeals or claims against tax acts, as well as to appeal through administrative proceedings against the resolutions issued in the economic-administrative procedures, will not start until the end of said period, or until the notification has been carried out - in the terms of the Third Section of Chapter II of Title III of the *LGT* -, if the latter had occurred after that moment.
- **Cadastré.**
 - Deadlines to respond to the requirements and requests for information made by the General Directorate of Cadastre and which are within the period for reply as at March 18, 2020 are extended until April 30, 2020.
 - Opening proceedings for allegations or hearing proceedings which are communicated from March 18, 2020 by the General Directorate of Cadastre may be responded until May 20, 2020, unless the deadline granted by the general rule is later, in which case this latter one will apply.

The procedure is considered as completed when the taxpayer responds to the requirement or request for information of fiscal importance or when allegations are filed.

- The period between March 18, 2020 and April 30, 2020 will not be counted for the purpose of the maximum duration of the procedures initiated automatically (although the Tax Administration may promote, order and carry out the essential procedures during said period).

Finally, the first final provision of the Royal Decree-Law modifies the consolidated text of the Law on the Tax on Patrimonial Transmissions and Documented Legal Acts (Royal Legislative Decree 1/1993, of September 24), in order to declare exempt from the gradual fee of notarial documents within the modality of documented legal acts of this Tax, all deeds of formalization of contractual novations of mortgage loans and credits that occur under the Royal Decree-Law, by incorporating in its article 45.IB) a new number, specifically, number 23.

2.- FINANCING OF COMPANIES AND SELF-EMPLOYED.

- There will be the possibility of requesting guarantees from the Ministry of Economic Affairs and Digital Transformation in order to request financing from credit institutions to attend the management of invoices, need for currency, maturities of financial or tax obligations or other liquidity needs.
- The ICO financing facilities are expanded, which are processed through the intermediation of financial institutions. Additional facilities of export coverage are offered by the Spanish Export Credit Insurance Company, SA, Cía de Seguros y Reaseguros.
- The owners of agricultural holdings affected by the drought of the year 2017, who arranged financial credits under the orders AAA/778/2016, APM/728/2017, APM/358/2018, may request the financial institutions to extend the amortization period of the subscribed loans up to one year, which may be a grace period.
- The State may financially support the purchase and leasing of equipment and services for the digitization of SMEs and telework solutions through financing from the ICO Official Credit Institute for SMEs.

3.- LABOUR AND SOCIAL SECURITY MEASURES:

The Decree distinguishes between those cases of suspension of employment contracts or reduction of working hours due to force majeure that have their direct origin in the health emergency situation (article 22), from those cases of suspension of contracts, dismissal or reduction of working hours due to organizational, financial or production reasons (article 23).

A.- Suspension of contracts and reduction of working hours due to force majeure caused by COVID-19 virus:

Article 22.- It is the fastest procedure. It applies to companies that present suspension or cancellation of activities; closure of premises of public influx; restrictions on public transportation; lack of supplies that hinders the development of the activity; or staff in a situation of isolation by the health authority. All this because of the impact of the virus.

The requirements and regime applicable in this case are as follows:

- a) The company must prepare a report justifying the link of the activity loss to COVID and proving that the measure has been taken due to any of the above causes and must communicate its request to the affected workers and, if any, to the representation of the workers and provide them with the report and the supporting documentation of the circumstances.
- b) The cause of force majeure must be verified by the labour authority.
- c) The resolution of the labour authority must be issued within 5 days from the date of the request and shall be limited to the confirmation of the existence of force majeure.
- d) The company is responsible for the decision on the application of measures to suspend contracts or reduce working hours.
- e) The suspension of the contract or reduction of working hours shall take effect from the date of the act causing the force majeure.
- f) There is no deadline in the Decree to start this process.

Article 24.- Exemption from the obligation to pay contributions during the validity of the suspension of the contract or the reduction of working hours due to force majeure:

1.- The TGSS exempts the company from the payment of the business contribution provided for in art. 273.2 LGSS (In the event of reduction of working hours or suspension of contract, the company will pay the corresponding contribution, being the managing entity only obliged to pay the contribution of the worker, once the discount referred to in the previous section has been made), as well as from the quotas for joint collection, during the period of the suspension of the contract or the reduction of the working day, if the company had fewer than 50 workers as of February 20, 2020.

2.- If the company had more than 50 workers, this exemption will be 75%.

3.- This exemption from Social Security fees must be requested by the company.

B.- Suspension of contracts and reduction of working hours for economic, technical, organizational and production reasons:

Article 23.- Here the following peculiarities apply to the regulations of these files based on article 47 of the Workers' Statute:

- a) In the absence of legal representation of the workers in the company, a representative committee set up by the most representative trade unions that have the legal standing to be a part of the negotiation committee of the applicable collective agreement shall be created.
- b) The consultation period between company and representation with a maximum of 7 days.
- c) The Labour Inspection report may be requested by the labour authority and, where appropriate, must be issued within 7 days.
- d) This modality does not give the right to be exempt from Social Security quotas provided for in the event of suspension of contracts or reduction of working hours due to force majeure.

Article 25.- If the company temporarily decides the suspension of contracts or the reduction of working hours due to the causes provided for in article 47 of the Workers' Statute based on the extraordinary circumstances regulated in this Royal Decree Law, the following will apply:

1. The State recognizes the right to receive the contributory unemployment benefit to those workers whose contracts have been suspended or whose working day has been reduced, even if they do not have reached the legal minimum contribution.
2. The period during which the workers are in this situation will not count to add to the maximum amount of duration of this benefit.
3. It is not necessary to have a minimum contribution.
4. The benefit will be calculated by taking as a regulatory basis the last 180 days of contributions or the period immediately prior to the situation, if lower. The percentage of 70% is applied to that base because this is generally established for this benefit according to article 270 of the *LGSS*.
5. The benefit will have a duration equal to the duration of the suspension of the contract or the temporary reduction of the working day.

The extraordinary labour measures provided for in the Royal Decree-Law will be subject to the company's commitment to maintain the employment for a period of six months from the date of resumption of the activity.

As a supplementary rule, the provisions of Royal Decree 1483/2012, of October 29, shall be applicable, which approves the Regulation of procedures of collective dismissal, suspension of contracts and reduction of working hours.

4.- SELF-EMPLOYED WORKERS.

Article 17 of the Decree establishes the right of self-employed workers to receive an extraordinary benefit due to the cessation of the activity.

This benefit may be requested by the self-employed in any of these two situations:

- 1.- Those workers whose activity has been suspended as a consequence of the application of Royal Decree 463/2020, of March 14, by which the state of alarm was declared.
- 2.- Those workers whose billing in the month prior to requesting this benefit is reduced by at least 75% in relation to the billing average of the previous semester.

The duration of this benefit will be one month from the entry into force of Royal Decree 463/2020, that is, until April 14, 2020, since said Decree entered into force the same day of its publication, that is, March 14, 2020, or until the last day of the month in which the alarm state ends, if it continues for more than a month.

To be entitled to this benefit, the following requirements must be met:

1. Being affiliated and registered with the Social Security at the time of the declaration of the state of alarm.
2. Proving the reduction of your billing if requested by reduction of billing.
3. Being up-to-date with Social Security payments. However, applicants are allowed to regularize their situation to obtain this benefit.

The amount will be the result of applying 70% to the regulatory base indicated in article 339 of the General Social Security Law (The regulatory base for the economic benefit for cessation of activity will be the average of the bases by which the worker has contributed during the twelve continuous months immediately prior to the legal cessation situation).

If the minimum contribution period is not accredited to be entitled to the benefit, the amount will be 70% of the minimum contribution base in the special Social Security regime for the self-employed.



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The time in which this benefit is received will be understood as listed and will not reduce the periods of benefit due to the cessation of activity to which the beneficiary may be entitled.

This benefit will be incompatible with any other Social Security benefit.

The management of this benefit corresponds to the Mutual Social Security.