

Amendments economic support package and clarification NOW

On 9 December 2020, the government announced more amendments to the current economic support and recovery package. Developments in the fight against the COVID-19 virus mean that, according to the government, expansions are necessary and that previously announced cuts will be partly reversed. This law alert provides an overview of the changes that may be relevant to your business.

Amendments and clarification NOW

Relaxations

The third temporary emergency measure to maintain employment (NOW 3.0) was published in October. In [this law alert](#) you can read more about the details of this scheme.

The NOW 3.0 covers three tranches, spread over the last quarter of 2020 and the first two quarters of 2021. Based on the wage bill of June 2020, companies can once again receive compensation for part of their wage costs in these three tranches.

The second tranche would contain cutbacks compared to the first tranche. The government has decided to reverse these cuts and maintain the level of turnover decrease and the subsidy percentage at the level of the first tranche of the NOW 3.0. The wage bill exemption rate, the percentage by which the wage bill may be reduced during the subsidy period without affecting the amount of the subsidy, will with 10% also remain the same in the second tranche as in the first tranche.

For the time being, the NOW 3.0 will therefore entail the following:

Tranche and period	Expected loss of turnover	Subsidy
1- 1 October to 31 December 2020	Minimum of 20%	80% of wage bill
2 - 1 January to 31 March 2021	Minimum of 20% (instead of previously announced 30%)	80% (instead of previously announced 70%) of wage bill
3- 1 April to 30 June 2021	Minimum of 30%	60% of wage bill

Clarifications

The government acknowledges that determining the correct turnover for the NOW is difficult. Further explanation has been provided in response to the large number of questions received by the UWV and the Ministry of Social Affairs and Employment about the definition of turnover of the NOW. Further explanation will follow at a later date.

The turnover definition of the NOW requires looking at what is considered as net turnover for the profit and loss account, as well as all income arising from the performance of normal activities of an organisation, even if these are usually referred to by a term other than turnover.

This definition must be used to establish what is considered as turnover. For example, for companies that supply goods or services, the revenue arising from this supply can be characterised as turnover from regular activity.

It has been clarified which corona-related subsidies are seen as turnover for the NOW, i.e. the TVL, TOGS, Scheme for continuity contribution for healthcare, availability reimbursement for public transport companies and allowance for ornamental horticulture and food horticulture. For all other corona-related subsidies (e.g. from municipalities), the starting point is that if a subsidy is regarded as turnover for the company under accounting law, it is also turnover for the NOW. In this respect, the aforementioned relationship with regular activities should be taken into account.

Amendments TVL

Some aspects of the second tranche of the compensation scheme for fixed costs, in Dutch: "*Tegemoetkoming Vaste Lasten (TVL 2)*", are also being reversed and broadened. This scheme is intended for companies that qualify as SMEs on the basis of the (European) SME test.

The most important changes to the TVL are as follows:

- ▶ Will be open to all sectors in the first quarter of 2021 as well. It had previously been announced that the number of sectors would be limited.
- ▶ New calculation method whereby the subsidy percentage depends on the loss of turnover (50% for a loss of turnover of 30% to 70% for a loss of turnover of 100%). The subsidy percentage used to set at 50%.
- ▶ The minimum loss of turnover will remain at 30% in the fourth quarter of 2020 and the first quarter of 2021.

The one-off surcharge to the TVL that can be applied for food and drink establishment closed on government order will be higher as a result of the above adjustments.

As the subsidy received under the TVL is regarded as turnover for the NOW, this may also have consequences for companies applying for subsidies under both schemes.

Consequences self-quarantine

The government recognises that compulsory self-quarantine may have various negative (financial) consequences for employees and employers. It has previously been announced that the government has agreed with the UWV that so-called 'safety-netters' (e.g. temporary agency workers without an employer) who are unable to work because of the quarantine may be entitled to sickness benefit under the Sickness Benefits Act. Research into the subject has shown that further or other compensation of financial consequences will not be possible due to the complexity and difficult feasibility.

It has been decided that as of 1 December, the mandatory self-quarantine period can be shortened under certain conditions. This could provide some relief for employers and employees.

Conclusion

Together with other measures, such as the introduction of 'corona jobs', the extension of the tax deferral until 1 April 2021 and the introduction of a scheme for Temporary Support Necessary Costs ("TONK") for households in serious financial difficulties, the government is trying to guide entrepreneurs and employees through this difficult phase of the crisis.

What HVG Law can do for you

The coronavirus affects the Netherlands severely. We are ready to help you with all challenges in these disrupting times. We understand your business and partner with you through uncertainty with practical advice and solutions, so you can focus on what needs your attention most.

COVID-19 helpdesk

Contact our helpdesk via info@hvglaw.nl or visit our special coronavirus webpage for more alerts: hvglaw.nl/corona-updates



Linda Fleer
Lawyer | Labor & Employment
E: linda.fleer@hvglaw.nl
T: +31 6 21 25 11 58



Elsbeth Deijs
Lawyer | Labor & Employment
E: elsbeth.deijs@hvglaw.nl
T: +31 6 21 25 20 43

About HVG Law

HVG Law LLP (HVG Law) ranks amongst the top Dutch law firms and is characterized by an entrepreneurial, innovative and solution-driven approach. With more than 150 dedicated and pragmatic lawyers, including (candidate) Civil Law Notaries, HVG Law offers high-quality, legal services in a broad and multidisciplinary context. Our lawyers are active in all legal areas and sectors relevant to business, directors, shareholders and government authorities and have knowledge of your business and your market. At our offices in Amsterdam, Rotterdam, Utrecht, The Hague, Eindhoven, New York, Chicago and San Jose (i.e., Donahue & Partners LLP in the USA), we are able to offer our legal services to national and international clients. HVG Law is part of the global EY Law network and we have a strategic alliance in the Netherlands with Ernst & Young Belastingadviseurs LLP.