

**URGENT AND EXTRAORDINARY MEASURES ON TAX AND
LABOUR AREAS SET OUT IN ROYAL DECREE LAW 8/2020,
OF 17 MARCH, TO DEAL WITH THE ECONOMIC AND
SOCIAL IMPACT OF COVID-19**

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1. Fiscal and tax measures

On 18 March 2020, Royal Decree-Law 8/2020 of 17 March 2020 on extraordinary urgent measures to cope with the social and economic impact of COVID-19 (the Decree) was gazetted. For previous measures taken in relation to the Covid-19 pandemic. The Decree sets punctual reinforcement measures on health, family support, tourism, interim finance, administration and tax to help mitigate the economic effects of the coronavirus outbreak

The Decree entered into force on 18 March 2020 and will apply for the period of 1 month, which may be extended monthly (except for those measures with a different period of application).

Meanwhile tax authorities have published provisional instructions (in Spanish) to request the deferral under the Decree. In general, when filing the tax return taxpayers should check the boxes related to deferral and payment in instalments according to the information set in the instructions. Particular attention should be paid when filing the reason for the request as it is important to include the expression "Aplazamiento RDL" while a final procedure is determined by the tax authorities.

The tax authorities have also announced that an upcoming change of regulations regarding the period applicable to tax procedures will be enacted and, while this change is approved, the period shall not be considered unfulfilled.

The Decree has established a deferral for the payment of those taxes not exceeding the amount of EUR 30,000 (i.e. the amount which permits deferral without providing a guarantee), which submission and payment period, either by assessment or self-assessment, applies from 13 March 2020 to 30 May 2020.

Only taxpayers with a turnover not exceeding EUR 6,010,121,04 in 2019 are entitled to the deferral, which may also defer payment of certain taxes ordinarily not allowed to deferral as withholding taxes, payments on account, taxes charged and CIT prepayments.

The deferral will apply for 6 months and no interest will accrue during the first 3 months of deferral.

The tax measures included in the Decree are summarized below:

1.1. Postponement of tax deadlines

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The Decree establishes the postponement to 30 April 2020 of the period initiated prior to the entering into force of the Decree in respect of:

- ✚ Payments of tax claims on assessments realized by the tax authorities notified within the voluntary or enforcement period of payment. Note that the postponement does not refer to the filing or payment of taxes on self-assessments.

- ✚ Payments in relation to agreements made with the tax authorities to postpone tax debts or pay them in instalments.

- ✚ Deadlines relating to determined auctions and awarding of assets procedures.

- ✚ Deadlines for responses to requirements, seizure proceedings or tax information requests, as well as to appeals under certain proceedings (e.g. penalty, recovery of taxes unduly paid or rectification of material errors).

- ✚ The enforcement of guarantees relating to immovable property in enforcement proceedings.

- ✚ Esponse period for requirements and information requests from the Cadastral General Directorate.

The Decree establishes the postponement to 20 May 2020 of the period initiated after the entering into force of the Decree, unless the law establishes a longer period, of:

- ✚ Deadlines in respect of assessments realized by the tax authorities notified within the voluntary or enforcement period of payment.

- ✚ Payments relating to agreements made with the tax authorities to postpone tax debts or pay them in instalments.

- ✚ Deadlines relating to determined auctions and awarding of assets procedures.

- ✚ Deadlines for responses to requirements, seizure proceedings or tax information requests, as well as that for initiating an appeal or hearing procedure.

- ✚ Response period for requirements and information requests from the Cadastral General Directorate.

Moreover, the period between 18 March 2020 and 30 April 2020 will not be taken into account in computing: (i) periods for administrative procedures relating to the application of taxes and penalties (tax authorities may continue with the procedures); and (ii) the statute of limitations. The period for filing an administrative appeal will commence on 1 May 2020.

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The extensions provided under the Decree are not applicable to specific proceedings that follow specific regulations.

The Head of the Customs and Excise Duties section may agree that customs clearance is performed by any tax authority or body that belongs to the Customs or Excise Duties section.

1.2. Exemption from transfer tax and stamp duties for mortgage loan transactions

The Decree amends the transfer tax and stamp duty law (Royal Legislative Decree 1/1993 of 24 September 1993) to introduce an exemption from stamp duty for the novation of mortgage loans effected in light of the Decree.

1.3. Specific tax measures (deferral of tax debts) available to self-employed and small and medium-sized enterprises:

Requirements, terms and conditions:

- Individuals or entities with turnover not exceeding Euros 6,010,121.04 in 2019
- Applicable to tax debts arising from tax office assessments and self-assessments with declaration and payment deadlines within 13 March 2020 and 30 mayo 2020.
- Subject to a request by the taxpayer, i.e., without exoneration from fulfilment of the relevant self-assessment tax return on due time.
- Maximum amount of tax debts that may be deferred: Euros 30,000
- Deferral available to certain tax debts that could not be deferred under ordinary circumstances:
 - o Withholdings from employees' salaries, property rentals, interests and dividends.
 - o VAT
 - o Instalment/payments on account of Corporate Income Tax
 - o The deferral will be granted for a fixed period of six months.

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- o No interest for late payment will accrue within the first three months deferral. Interest will accrue for the following three months, at a 3.75% yearly rate.

2. Labour measures

Chapter II of Royal Decree-Law 8/2020 (the "**Royal Decree**") establishes several measures to make flexible the temporary activity adjustment mechanisms in order to avoid dismissals.

The measures adopted in the area of temporary suspension of employment contracts and working hours' reduction (ERTE) aim to prevent a situation such as the current one from having a negative impact of a structural nature on employment.

In the light of international experience, this kind of measures, which have the purpose to make more flexible and expedite the employment regulation procedures as well as to improve coverage for both workers and employers, and help to reduce the negative impact on employment and economic activity, since priority will be given to maintaining employment rather than terminating contracts.

2.1. Measures related to ERTEs

The legal modifications focus on those cases in which the adoption of the ERTE is motivated by force majeure, as well as those motivated by **economic, technical, organizational and production reasons**.

The main legislative developments concern to speeding up the procedures for the adoption of ERTE's. These procedures can be summarized as follows:

a) ERTE's originated by force majeure

Cases of force majeure shall be those that have their direct cause in the loss of activity because of the different governmental measures adopted, when they imply one of the following cases:

- i. Suspension or cancellation of activities.
- ii. Temporary closure of premises which are opened to public.
- iii. Restrictions on public transport and mobility of people or goods in general.
- iv. Lack of supplies that seriously prevent the regular development of the activity.

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- v. Urgent and extraordinary situations due to staff contagion or preventive isolation measures decreed by the health authority

b) Procedure for the suspension of contracts and reduction of working hours due to force majeure

- i. Application, by the Company, to the competent Labour Authority, accompanied by a report on the link between the proposed measure and the government measures adopted, accompanied, where appropriate, by the corresponding supporting documentation.
- ii. The company shall communicate the application to the workers and will forward the mentioned report and supporting documentation, if any, to the workers' representatives.
- iii. Issuance of a report by the Labour and Social Security Inspectorate, within a maximum term of 5 days, being such request optional for the Labour Authority.
- iv. Resolution of the Labour Authority, within a maximum of 5-days term.

The above special requirements will not apply to files already initiated or communicated before 18 March 2020.

c) ERTE's for economic, technical, organizational and production reasons:

- i. In companies with no workers' legal representation, a representative commission will be established, within a maximum term of 5 days, composed by the most representative unions of the sector to which the company belongs. In the event of not being formed by those unions, 3 workers from the company itself elected in accordance with the process provided for in Article 41.4 of the Workers' Statute may form the commission.
- ii. A consultation period will be opened for a maximum term of 7 days.
- iii. The Labour Authority will have a deadline of 7 days to request additional information to the Labour and Social Security Inspectorate, being such request optional.

The above special requirements will not apply to files already initiated or communicated before 18 March 2020.

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2.2. Measures concerning unemployment protection for employees affected by ERTE's

✚ Recognition of the right to receive the unemployment benefit, even if they do not have reached the minimum period of contribution.

✚ The time in which the unemployment benefit is received shall not be counted at the contributory level for the purpose of consuming the maximum periods of receipt.

2.3. Exceptional measures to facilitate homeworking

✚ The obligation for the employer to carry out the evaluation of occupational risks through a self-evaluation carried out voluntarily by the worker, will be understood to have been fulfilled.

✚ Creation of a special web for small-medium size companies (Acelera PYME portal from Red.es) so that they can be informed of all the resources available to them for their digitalisation and, in particular, for applying homeworking solutions (leasing of equipment and services for digitalisation).

2.4. Right to adapt working conditions and to reduce working hours

✚ Workers who can prove that they have a duty of care towards their spouse/partner, as well as with relatives up to second degree who, for reasons of age, illness or disability, need direct personal care as a direct result of the COVID-19, shall be entitled to have their working day adapted and/or reduced. This request must be justified, reasonable and proportionate in relation to the company's situation.

✚ The request corresponds to the worker, specifying both, scope and content, as long as it is justified, reasonable and proportionate and is limited to the exceptional period of the COVID-19.

✚ The special working day reduction must be communicated to the company 24 hours in advance and may reach 100% of the day if necessary.

2.5. Exemptions from company contributions in cases of force majeure

✚ In the ERTE's procedure due to force majeure, the company will be exonerated from paying the employer's contribution, if the company, on 29 February 2020, had less than 50 workers registered with the Social Security.

✚ If the company has 50 or more employees registered with the Social Security authorities, the exemption from the obligation to pay contributions is of 75 % of the company's contribution.

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✚ The exemption from these contributions will be applied upon request by the company.

2.6. Retroactive application of unemployment and employer's contribution rights for procedures prior to the entry into force of the Royal Decree

✚ The extraordinary measures adopted, as to recognise benefits for workers who do not comply with the minimum contribution periods, or the exceptional exemptions from employer contributions, will be applicable only to procedures notified, authorised or initiated prior to the entry into force of RD-Law 8/2020 and based on the causes set out therein.

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