

Corona-related measures to support businesses in the Netherlands

I. Introduction

1. This memorandum provides a short overview of measures taken in the Netherlands to support businesses struggling with the effects of Corona and other measures taken by the government to combat Corona that may be relevant in dealing with financial distress.
2. This situation develops continuously. The information below is up to date as of 16 December 2020. Changes compared to the previous version of this document, that of 29 September 2020, are *typeset cursive*.
3. Should you require any further information, please contact Niels Pannevis at Niels.Pannevis@resor.nl. Also, at the end below you will find references to websites with further details.

II. Government reimbursement for labour costs

4. A major pillar of the government stimulus is a reimbursement-programme for labour costs of effectively superfluous employees, the so called 'Tijdelijke Noodmaatregel Overbrugging voor Werkbehoud', or NOW. The original NOW started in March. At the time of writing, NOW 3.0 applies, until 1 July 2021. Companies can apply for the NOW 3.0 from 16 November onwards, with retro-active effect until 1 October 2020. The core of the NOW 3.0 arrangement is the same as under NOW 1.0 and 2.0: under NOW 3.0 companies can request a substantial reimbursement of the labour costs associated to lost revenue.
5. Companies can request the NOW 3.0 if they experience a downfall of revenue above the threshold. In the nine months during which the NOW 3.0 applies the arrangement only applies for companies with a loss of revenue of 20% or more (or 30% as of April 2021). The estimated loss is determined by comparing the expected revenue in the relevant time period with the revenue generated in 2019.

6. The amount of the reimbursement under the NOW 3.0 depends upon the downfall in revenue. Under NOW 3.0, 80% of the labour costs associated to the lost revenue can be reimbursed. Hence, if a company loses 50% of its revenue, up to 40% of the total wage bill can be reimbursed. The support covers wages, but also includes a 40% surcharge to cover employer costs for pensions, employer contributions to social benefits and holiday payments. The first payment is distributed as quickly as possible after the application, the second payment follows roughly two months later.
7. To apply for NOW 3.0, it is not required that employees currently have nothing to do. Also, there is no requirement as to the sector the applying company operates in. Salaries over EUR 9.538 per month cannot be compensated for the part that exceeds this amount.
8. For groups of companies the loss of revenue is calculated on a consolidated basis. For international groups the revenue is calculated by consolidating all Dutch entities and entities that pay wages in the Netherlands. Individual parts of company groups that on a consolidated basis do not have a loss of revenue of 20%, but individually do have such a loss of revenue, may also apply for this arrangement.
9. Companies that use the NOW 3.0-facility cannot distribute dividends or bonuses to shareholders or the board. Also, they may not buy back stock if the advance under the NOW exceeds EUR 100.000, or if the definitive compensation exceeds EUR 125.000. Moreover, employers are obliged to stimulate the employability of their employees, e.g. by providing possibilities for (re)training. Companies should also inform their employees if an application for the NOW is granted.
10. When applying for NOW 3.0, companies agree to have published online the name of their organization, place of domicile, the amount of the advance and the definitive compensation. A register of companies receiving such support, including the amounts, for NOW 1.0 has already been published online. *Around 60% of these companies that have received support under NOW 1.0 will have to return part of their received subsidies.. Some of these companies were better able to reduce their labour costs than originally anticipated, others experienced a smaller loss of revenue than expected.*

11. Under NOW 3.0, as was the case under NOW 2.0, companies have to provide an opinion of their accountant regarding the actually incurred loss of revenue, on the basis of which the final settlement was made if the received compensation exceeds EUR 100.000. In case of an advance exceeding EUR 20.000 or an final disbursement exceeding 25.000, a statement of a third party – not necessarily an accountant - is required.
12. Staff that works in a payroll-arrangement or through an employment agency can also be covered under the NOW 3.0. The employment agency or payroll organization will then have to apply.
13. The NOW 3.0 shall not affect rights that dismissed employees have on the basis of the Dutch unemployment act.
14. To compensate for the reduction of the reimbursement percentage in NOW 3.0 compared to NOW 2.0, companies are allowed to gradually lower their loan sum, e.g. by dismissing or not replacing retiring staff, without affecting their reimbursement. The exemption rate is 10% of the total loan sum during the entire period of NOW 3.0. So if a company lowers its loan sum with 10%, it will still receive the same reimbursement as if the loan sum remained the same.

III. Fiscal measures

15. The tax authorities are taking several measures to keep companies from going into financial distress.

Extension of payments

16. Since March 2020 all businesses are able to get an extension of payment of their taxes. The extension not only covers tax debts current at the time, but also debts incurred within three months of such extension being granted. The extension is extended *until 1 April 2021*. *From that date on, companies should start paying their taxes in accordance with the regular rules. Simultaneously, the tax collector has announced it will reach out to companies with a proposal for a payment arrangement in the spring of 2021.* From 1 July 2021 companies will be granted no more than three years to satisfy the tax debt accrued during the Covid-period.

17. The taxes that are extended include income taxes, corporate income taxes, VAT, taxes over wages, gambling taxes, excise duties, consumption taxes, insurance taxes, landlord levies, energy taxes and other environmental taxes. The tax authorities suspend collection measures during the extensions, and no penalties are incurred for untimely payment.

Special tax reserve

18. The Dutch government has adapted existing legislation on tax-deductible loss. Loss compensation with the preceding year is, in principle, only possible when the tax return for the loss year is filed and the final tax assessment for the profit year has been issued. However, in 2020 taxpayers are allowed to take into account the expected 2020 loss (which loss must relate to the coronavirus) in their tax return for 2019 through the creation of a tax reserve with a maximum of the 2019 taxable profit excluding this "corona tax reserve".

Adjustment of preliminary assessments

19. Companies paying income or company taxes based on a preliminary tax assessment which is in turn based on last year's profit, can request to lower that preliminary assessment of the profit to be made in 2020. This directly lowers the taxes currently due.

No interest

20. Usually due and payable tax claims incur interest of 4%. This rate has been lowered to 0,01% for tax debts which arose in the period from March 2020 until 31 December 2021.
21. The interest for taxes that are assessed late is also lowered. Usually this is 8% for corporate income taxes and 4% for other taxes. The rate for corporate income taxes has been lowered to 4%; the rate for other taxes was previously temporarily lowered to 0,01%. *From 1 October 2020, until 31 December 2021, for both types of taxes this rate is set at 4%.*

Local taxes

22. Many local authorities, such as the municipalities of Amsterdam, Utrecht, The Hague and Rotterdam, have granted a suspension of payments of (some of) their taxes and temporarily lowered the rate of the interest of due and payable tax claims from 4% to 0,01%.

IV. Emergency funds

Additional guarantees for large financing

23. Under an existing program the government guarantees medium and large sized loans made by financial institutions to large companies (*Garantie Ondernemingsfinanciering, GO*). Loans between EUR 1,5 million and EUR 150 million qualify. The maximum duration is eight years. They can be guaranteed for up to 50%.
24. On 28 April, this program was expanded by introducing a separate facility for enterprises with financing liquidity needs for working capital and investment costs arising as a result of the coronavirus (*GO-C*). The maximum guarantee has been raised to 80%, and 90% for SME loans. The maximum duration of the guarantee is six years. This program only covers unsubordinated loans to enterprises which were not in financial difficulties on 31 December 2019. Applications for such guarantees should be submitted before *30 June 2021*.
25. Interested companies should address their bank. A list of participating banks can be found under the links listed further below.

Additional sureties for SME-loans

26. Under an existing program, the government acts as a surety (*borg*) for (part of) loans to small and medium sized enterprises (*Borgstelling Midden- en Klein Bedrijf, or BMKB*). To qualify as a small or medium sized enterprise (SME) a company can have no more than 250 employees (fte's), a turnover of EUR 50 million or a balance sheet total of EUR 43 million.
27. This existing program is expanded. Under the new rules the government will act as surety (*borg*) for more loans and for up to 75% of the loan. It is intended for bridge loans or extension of existing loans for up to *two years*. The personal surety of entrepreneurs will be lowered from 25% to 10%. The maximum credit for this program is EUR 1,5 million. Requests under this expanded programme should be submitted before 1 April 2021.

28. To request such surety, companies should address their own bank. The premium to take part in this arrangement has been lowered from 3,9% to 2% (with a duration up to two years) and to 3% (with a duration up to four years). The repayment term has been extended from two to four years.
29. The specific surety program for entrepreneurs in the agricultural sector will also be expanded.

New credit lines for companies without bank financing

30. New credit lines will be opened for companies that have no existing bank financing, particularly innovative companies, start-ups and scale-ups (*Corona-Overbruggingslening*, COL). This new financing will be supplied through the regional development societies (*Regionale Ontwikkelingsmaatschappijen*, or ROMs). The central government will supply EUR 200 million for the ROMs to arrange these loans. The loans themselves will be between EUR 50,000 and EUR 2 million. For larger loans, between EUR 2 million and EUR 5 million, a similar facility is set up by the national investment fund InvestNL.
31. *The government has indicated that this program will be extended until 30 June 2021.*

Support of closed and near-closed businesses

32. A specific support program has been set up for businesses that were forced to close under the Corona-measures (hairdressers, event-organizers), called Compensation Fixed Costs Small and Medium Enterprises (*Tegemoetkoming Vaste Lasten* or TVL). SMEs with a maximum of 250 employees that have lost more than 30% of their net turnover can receive a maximum amount of EUR 90.000 for a period of three months to pay their fixed costs (excluding wage costs). This amount is based on the total loss of revenue: *the higher the loss in revenue of a company, the higher the percentage of the fixed costs that can be reimbursed. With a loss of revenue under 30%, no TVL support is available. With a loss of revenue of 30% or more, 50% of the fixed costs can be reimbursed, if the loss of revenue is 100%, the reimbursement can be 70%.* Companies applying to the TVL should have at least EUR 4.000 in fixed costs (not including wage costs). The TVL is in addition to the NOW.

33. The TVL will be extended until 30 June 2021 (TVL 3). It is divided into three periods: *October-December, January-March (2021) and April-June (2021)*. Companies need to apply separately for each period.

Other small business measures

34. In addition to the program mentioned above, self-employed can get extra income support in two ways under the TOZO (*Tijdelijke Overbruggingsregeling Zelfstandig Ondernemers*).
35. Self-employed with a low income can get extra income support under the social benefits program for up to three months, without having to first use up their savings.
36. In addition, self-employed can request a loan for working capital with a maximum amount of EUR 10.517. The interest rate is 2%.
37. *The TOZO-facility will be extended until 30 June 2021. In addition to the conditions that were previously required, a means test is introduced. To apply for TOZO 3, the household income of the self-employed should not exceed the minimum wage. The available funds of the partner of the self-employed are also counted.*
38. *In February 2021, the government hopes to introduce the TONK (Tijdelijke Ondersteuning Noodzakelijke Kosten), which provides financial support for households who have suffered a drop in income.*
39. Also, small businesses financed through governmental finance provider Qredits will get an extension of payments of six months and their interest rates will be lowered to 2%.
40. Small companies that have attracted public investment through the early stage financing (*Vroege Fase Financiering*) or through innovation credit (*Innovatiekrediet*), can get a suspension of payments on these loans of half a year.

Re-insurance for credit insurance companies

41. The government has provided a re-insurance scheme for credit insurance companies. The aim is to allow the credit insurance companies not to lower their limits in the short term. The government has stated that it will guarantee supplier credit up to EUR 12 billion, covering deliveries as of 1 January 2020.

Support by banks

42. In March Dutch banks have indicated that SME's with loans up to EUR 2,5 million can get an extension of payments for half a year. This overall-extension approach has since elapsed. *Although the European Banking Authority has provided banks with room to grant further extensions, no announcements have been made on broad extension programs as before.*
43. For larger financings bespoke measures are being taken by the banks. Some banks are granting all larger customers suspension of interest payments, others are even suspending down payments on existing financing for larger customers.

Other suspensions of payment obligations

44. Pension funds are suspending payment obligations for affected companies. Currently this is done per individual company, broader guidelines are being developed.
45. The organisations of professional landlords and tenants of corporate real estate have agreed on a number of (non-binding) guidelines, such as the extension of rental obligations of three months. Some large individual landlords did already grant extensions. In the case law courts are granting adjustments of rent for tenants that have had to close their businesses due to Corona-measures.

Measures for specific sectors

46. Health insurance companies have promised to pay out health care providers a percentage of their normal turnover from insured care (the estimated percentage varies between 60 and 85%).

47. The government has indicated that it will support the cultural sector with an additional EUR 300 million. This will be dispersed through the regular channels by which the government subsidizes the cultural sector. In September the government announced additional support of EUR 482 million for the cultural sector.
48. Also, specific funds of EUR 650 million for agriculture were announced. This focuses on floriculture and the food industry.
49. *In December the introduction of a so-called 'voucherbank' was announced. This is essentially a program to finance travel companies to allow them to pay the outstanding travel vouchers. At the time of writing, the budget for this voucherbank is expected to lie around EUR 400 mln.*
50. *For event-organizers, a facility called 'Evenementenbranchemodule' will be set up in addition to the TVL. Given their seasonality, event-organizers are not able to apply for the TVL during the fourth quarter of 2020 and the first quarter of 2021. The Evenementenbranchemodule is fairly similar to the TVL, but allows for a different way to calculate the loss of revenue.*

V. Amendments in statutory insolvency and company law

51. In comparison to other countries it is important to note that Dutch law has no strict statutory obligation to file for insolvency proceedings, so in that regard amendments were not as urgent as elsewhere. *Courts have been applying extra scrutiny to requests for the opening of insolvency proceedings by creditors, in some cases dismissing such requests due to the special circumstances.*
52. *Coronavirus has sped up the adoption of the act on the conformation of out-of-court arrangements (the WHOA). This law introduces a new restructuring tool similar to the Scheme of Arrangement as of 1 January 2021. It allows for a quick and effective procedure, which includes voting in classes, a cross-class cram down, the ability to bind secured creditors, and the possible appointment of a 'restructuring expert'. Please be referred to our [website](#) for more information on the WHOA (also in English).*

53. *In addition, a special, temporary act on the suspension of seizures of assets and insolvency petitions has been adopted by Parliament. It will likely enter into force on 1 January 2021, and apply until 1 February 2021, but it may be extended. Under this act, the Temporary Payment Deferment Act or Tijdelijke Betalingsuitstelwet, a debtor can request the court to suspend the ability of a specific creditor to file for insolvency proceedings of the debtor, or seize his assets for recourse. Such a request can be granted if (i) the debtor is in a liquidity-crisis due to the measures to combat Corona, (ii) the debtor is expected to be able to meet his obligations after a term set by the court, and (iii) the addressed creditor is not disproportionately affected by this.*
54. New legislation has been enacted allowing the boards of companies to plan general meetings up to four months later than otherwise allowed or to conduct them through video- or audioconference. Under this legislation, director's liability risks that would normally be incurred due to late publishing of the annual accounts are also mitigated, if the delay can be attributed to COVID-19 circumstances. Some of these provisions have retroactive effect back to 23 March 2020. Also, under the same legislation the meetings normally required for the execution of notarial deeds can be conducted through video- or audioconference. *The planned expiration of this legislation has been postponed to 1 February 2021.*

VI. Measures to combat the virus

'Hard' lock-down

55. *As of 15 December 2020, the Netherlands is in a lock-down until (at least) 19 January 2021. This means all non-essential shops are closed, as are schools, museums, theatres, gyms, hairdressers etc. Only shops selling essential items such as food and drugs are open, and medical professionals such as physical therapists. Mixed stores can stay open if over 30% of their revenue comes from the sale of essential items. Café's, bars and restaurants have been closed since 13 October 2020. All workers able to do so should work from home.*

Courts

56. *The courts are operating under strict Covid protocols, which strictly limit the number of attendees, and many court proceedings are conducted by audio- or videoconference. Under these protocols, the courts remain open during the lock-down.*

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VII. Links

Government reimbursement for labour costs (NOW)

- [Central government website](#) (in Dutch)
- [Business.gov](#) on NOW (in English, shorter version)
- [Chamber of Commerce](#) on NOW 3.0 (in Dutch)

Fiscal measures

- [Tax authorities](#) (in Dutch)
- [Business.gov](#) on fiscal measures (in English, under 'Tax options')
- [Form to request extension of payments](#) (In Dutch)

Emergency funds

- [Business.gov](#) on sureties for larger companies (in English)
- [Central government website](#) on sureties for larger companies (in Dutch)
- [Business.gov](#) on extra sureties for SME-loans (in English)
- [Further information by central government](#) on SME-sureties (in Dutch)
- [Dutch banking association](#) on extension of six months for SME's (both in Dutch and English)
- [List of governmental credits and guarantees](#) (in English)
- [Temporary bridging scheme for self-employed entrepreneurs \(TOZO\)](#) (in Dutch)
- [Further information on TOZO](#) (in Dutch)
- [Further information on TOZO](#) (in Dutch)
- [Further on TvL](#) (in Dutch)
- [Business.gov](#) on TOZO (in English)
- [Reimbursement for entrepreneurs in affected sectors \(TOGS\)](#) (in Dutch)
- [Business.gov](#) on TOGS (in English)
- [Further information on COL](#) (in Dutch)
- [Further information on COL](#) (in English)
- [Participating banks in GO-C facility](#) (in Dutch)
- [Participating banks in Go-C facility](#) (in English)
- [Further information on ROMs](#) (in Dutch)
- [Further information on ROMs](#) (in English)

- [Further information on Tijdelijke betalingsuitstelwet \(in Dutch\)](#)

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