Summary of COVID-19-Related Tax Relief for Employees by Country

The following is for general information only, and is not to be taken as legal advice.

Belgium:

All benefits granted by the employer (whether in cash or in kind) in exchange for professional activities, are, in principle, subject to tax and social security. However, exceptions exist. Please find some of these exceptions below.

1. Cash allowance to set up homework spaces

Employers can grant a temporary home working allowance to their employees as long the "COVID-19 measures" are in force.

A monthly allowance up to 129,48 EUR can be granted free from personal income tax and social security contributions. Every employee working from home can benefit from this allowance, regardless of their position.

Some employers may also want to reimburse additional expenses made by their employees relating to their home office.

For social security purposes, the exempt home working allowance is considered to cover utility expenses such as heating and electricity, small office supplies, etc. Other expenses incurred by the employee such as the use or the purchase of a computer screen, a scanner, use of own mobile phone, etc. can be reimbursed on top of the allowance, free from social security.

From a tax perspective, it is yet unclear as to whether e.g. the purchase of an office chair, monitor, scanner, etc., can be reimbursed tax-free on top of the amount of 129,48 EUR as a cost proper to the employer.

However, important to know is that the professional use of private internet connection or personal computer is not included in the lump sum allowance. To cover these expenses, a lump sum reimbursement of 20 EUR per month per type of expense is accepted as a cost proper to the employer (free from tax and social security).

2. Supplementary unemployment benefits

To soften the loss of income of the employees being confronted with temporary unemployment due to the COVID-19 pandemic, employers may want to pay a supplement on top of the statutory unemployment benefits (i.e. a coverage in accordance with the Belgian social security scheme).

In principle, such supplementary payments are tax deductible on behalf of the company and taxable on behalf of the employees at the normal rates.

Such supplements can, however, be exempt from (employer and employee) social security contributions, if

- the employees do not receive a higher net than when they would have been working; and
- all employees are treated equally (in terms of percentage or via a lump sum).

In view of the reference salary

- only salary subject to social security contributions can be taken into account;
- for employees receiving a variable salary, the average salary of the past months can be taken into account.

3. Exceptional benefits / generosities

Under certain conditions, benefits granted to employees in case of an event not directly related to the professional activity can be exempt from tax and social security. In the past, it has already been accepted that one-time benefits such as a bike, a tablet, a cash amount, etc. on the occasion of e.g. the x-year anniversary of the company or material fire damage to the home of the employee can be granted free from tax and social security to employees.

The question is whether the current COVID-19 pandemic could also qualify as such an event on the occasion of which a benefit could be granted to the employees free from tax and/or social security (not yet confirmed).

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Canada:

Under Canadian federal income tax law, financial assistance provided by an employer to an employee is generally included in the employee's income. While there is an exception for direct financial assistance to employees (not shareholders or those with power to control company decisions) who are affected by a disaster, the Covid-19 pandemic has, as of May 6, 2020, not been designated as a disaster for this purpose. Taxable financial assistance could take the form of a reimbursement of employee expenses related to working from home (WFH). However, the CRA has provided some limited administrative relief in this regard, having announced recently that it will not treat as a taxable benefit to the employee the reimbursement of an amount not exceeding CAD 500 of the cost of acquiring personal computer equipment to enable the employee to perform his or her work.

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Hong Kong:

On 18 April 2020, the Hong Kong government approved a HKD 137.5 billion package of relief measures under its Anti-epidemic Fund, to help businesses and residents tide over economic hardships caused by the COVID-19 pandemic.

1. Employment Support Scheme

The government has earmarked HKD 81 billion for disbursement under the Employment Support Scheme (the "ESS"), which aims to provide eligible employers with wage subsidies for six months from June 2020 to November 2020. Subject to limited exceptions, the ESS is open to any employer who has been making Mandatory Provident Fund ("MPF") contributions, or has set up an MPF-exempted Occupational Retirement Scheme Ordinance ("ORSO") for its employees on or before 31 March 2020. Eligible employers will receive wage subsidies for the months of June 2020 to November 2020, calculated on the basis of each employers' number of employees and respective wages in a "specified month" between December 2019 and March 2020 (to be nominated by the employer). Subsidies will be disbursed in two tranches and, subject to a wage cap of HKD 18,000 per month, the amount of wage subsidies will be equivalent to 50% of the actual wages paid to each employee.

In order to qualify for the ESS, employers must undertake not to make redundancies during the subsidy period and to spend all the wage subsidies on paying wages to the employees. The monitoring mechanism will be mainly based on MPF and ORSO contribution records, and employers who fail to comply with their undertakings will be subject to penalty and subsidy claw backs. Additionally, in order to ensure that employees will ultimately benefit under the ESS, the government will publicly announce a list of employers who have received subsidies, the total number of employees benefited and the amount of subsidies disbursed under the ESS.

Under the ESS and subject to limited exceptions, self-employed persons who have set up an MPF account on or before 31 March 2020, which has not been terminated as of 31 March 2020 are also eligible to receive a one-off subsidy of HKD 7,500.

In addition to the above, the government has committed to investing in job advancement measures and job creation in the private and public sectors.

2. Sector-specific assistance

Under the same package of relief measures, the government has offered further financial support and subsidies to particularly "high-hit" sectors, including but not limited to all sectors that have been completely or partly closed due to the government's measures for safeguarding public health (e.g. amusement game centres, fitness centres, sports and recreational sites, commercial bathhouses, etc.). For example, the government is offering cash subsidies to all eligible licensed individuals of the estate agency sector through the Estate Agents Authority. It is also offering financial assistance to certain exchange participants and individuals licensed with the Securities and Futures Commission.

One-off relief is also provided to specific sectors, including but not limited to tutorial schools, local primary producers, creative industries, tourism industry, construction sector, aviation sector and catering business. In addition, the government has provided funding support through fast-track processing for enterprises to adopt IT solutions for developing distance business.

The government has also announced that it will implement tax exemptions from the year of assessment 2019 to 2020 in respect of most financial assistance or relief received under the Anti-epidemic Fund by businesses and individuals.

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United States:

1. Cash or Cash Equivalents to Help Employees with Personal Disaster Expenses. Employers may provide direct tax-free assistance, such as cash and gift cards, to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses due to a "qualified disaster" under Section 139 of the US Internal Revenue Code. COVID-19 has been declared to be such a qualified disaster. The payments and assistance provided will not be treated as taxable wages to the employees, and the employer will be able to deduct those payments as ordinary and necessary business expenses. There is no specific cap on the amount of assistance that may be provided to an employee under Section 139 other than it must be "reasonable and necessary" and must not be for an expense reimbursable by the employee's insurance.

2. Retirement Plans. Legislation (the CARES Act) included a number of relief provisions tied to retirement plans, available to qualifying individuals at the option of the employer. An individual qualifies if: (1) they or a spouse has been diagnosed with COVID-19, (2) they have been financially impacted by quarantine, job loss, or reduced hours due to COVID-19, (3) they are unable to work because of childcare needs caused by COVID-19, or (4) they have experienced other factors determined by the Secretary of the Treasury. The employer can rely on the participant's certification for eligibility.

- Distributions. A plan may allow distributions from plans of up to $100,000 in 2020. These are subject to income tax over a three-year period, but the additional 10% penalty tax on early withdrawals before 59 and ½ is waived. The recipient can repay the COVID-19-related distributions to a qualified retirement plan within the three-year period and avoid paying income taxes on the withdrawal.

- Loans. The usual limits for a loan to a participant from their plan of 50,000USD or 50% of the participant's account balance has been raised to $100,000 or 100% until September 23, 2020. If a participant has an outstanding loan payment due to a plan between March 27, 2020 and the end of the year, they can delay repayment for up to a year.

- Suspension of Required Minimum Distributions. Qualified plans and Individual Retirement Accounts (IRAs) normally must commence distributions after the later of age 70 and ½ or retirement (age 72 for those turning 70 and ½ after 2019). Such required distributions for 2020 are waived for defined contribution plans and IRAs.

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South Africa:

In South Africa, the regulators have provided guidance on how employers should deal with employee benefits during these challenging times caused by the COVID-19 pandemic.

Regarding medical schemes, the Council for Medical Schemes (CMS) requested that schemes investigate disruptions to member contributions on a case by case basis. Furthermore, during the national lockdown imposed by the South African government, the CMS advised that there will be no blanket exemptions to regulatory requirements that will apply. Rather, medical schemes are encouraged to apply for exemptions if they can prove exceptional circumstances regarding the scheme's solvency levels, investment performance as well as members' benefits and interests, among other circumstances. The CMS also gave medical schemes advice on the options they can consider to provide financial relief, including using accumulated savings funds or ex-gratia payments to offset contributions.

Regarding retirement funds, the Financial Sector Conduct Authority (FSCA) provided a 3-month extension to pension funds to submit their annual statements and valuation reports. Additionally, the FSCA advised the board of funds to apply the rules of the fund to alleviate the challenges that employers and members may face. If there are no such rules, the funds must urgently submit rule amendments that will deal with such challenges. The rules may refer to temporary absence from work, a break in service and suspending or reducing contribution payments. Members that will be affected by such measures must be notified by the fund. If the decision is taken to reduce or suspend contributions, full risk benefit premiums should be paid in full to ensure that if something happened to employees as a result of COVID-19, they would still be protected. The FSCA has emphasised that retirement funds must ensure that their members are treated fairly and that the board of the fund is tasked with risk management. If there are changes to the process or procedures followed, the FSCA has advised that all relevant stakeholders must be informed.

In conclusion, employee benefits will be impacted during these troubling times and different measures can be used to ensure that the impact is minimised. Although we are in uncharted territory, it seems that that approach in South Africa is to use the existing rules of retirement funds and medical schemes to manage the risks.

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