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ANTI-CRISIS SHIELD – FINANCIAL AID FOR ENTREPRENEURS

The Act amending the act on special solutions related to the prevention, counteraction and eradication of COVID-19 [...], i.e so called anti-crisis shield, adopted by the Parliament on March 31, 2020, introduces a number of solutions for the period of deepening crisis caused by the epidemic. Below we present the main tools of the economic stimulus package for entrepreneurs, included in this legal Act.

1. Co-financing of remuneration in the event of downtime or reduced working time.

The special Act provides for two main forms of financial support for entrepreneurs, which aim to protect employment in companies, despite economic difficulties. In the first of these forms, the funds will be paid from the Guaranteed Employee Benefits Fund (GEBF) by the directors of the Provincial Labor Offices. Employers who have experienced **economic downtime** or **reduced working time** as a result of a decrease in economic turnover caused by COVID-19 will be able to apply for the funding. The special law provides for a dedicated procedure and conditions for introducing these measures at the employer on the basis of an **agreement with trade union organizations or employee representatives**. According to the employers' organization, this requirement may in practice prevent the use of this assistance, especially for large companies, where reaching agreement in a short time will be extremely difficult. This is because, the time to submit an application, due to the limited resources of the GEBF, will be of key importance.

The funding applies to employees' remuneration and social security contributions due from the employer. What is important, the employer, which introduced **economic downtime** may decrease the remuneration **by not more than 50%** and to the level of at least minimum remuneration (currently 2600 PLN gross). So decreased remuneration may be subsidized with the amount up to 50% of the minimum remuneration for work, i.e. up to a maximum of PLN 1553.09 per one employee (including social insurance contributions).

The remuneration of employees covered by **reduced working time by 20%** (for part time workers not less than 0,5 time), in turn, may be subsidized up to 50% of its value, but no more than **40% of the average monthly salary** from the previous quarter, applicable as at the date of submitting the application, i.e. currently - up to PLN 2452.00 per employee (including social insurance contributions). The support will not apply to remuneration that in the month preceding the submission of the application was higher than 300% of the average gross remuneration from the previous quarter (i.e. currently 15595 PLN).

As a rule, all entrepreneurs employing staff can apply for the funding. The condition for submitting the application is to **demonstrate a decrease in economic turnover** by a minimum of 15% in the selected period of two months of 2020 compared to the same period of 2019, or by a minimum of 25% in the selected month of 2020 compared to the previous month, as well as good financial condition of the entrepreneur as at the end of 2019, according to the criteria described in detail in the Act. The given criteria include *inter alia* not being in arrears with social security contributions or not having tax liabilities.

The funding will be granted for **a maximum period of 3 months**, with the possibility of extension in the event of an extension of the epidemic status. From the draft of the Act the criticized provision on examining applications in order of receipt has been removed. However, one should be aware of the fact that entrepreneurs who are the first to submit applications will have a better chance of obtaining funding - the Fund's resources will not be enough to help everyone. Importantly, the employer who benefited from the support must **maintain the employment of the subsidized employees** in the period of receipt of the aid and directly following period, not longer than 3 months, under pain of repayment of support amount with interest. This solution is also criticized as shifting to entrepreneurs the economic risk related to the continuation of the global economic crisis.

2. Aid for entrepreneurs in the biggest crisis

The second form of funding will be implemented by the county governor through the county labor offices. Support will only apply to micro, small and medium-sized entrepreneurs (so employing maximum of 249 people) - so it does not apply to large companies. In addition, applications for obtaining the given subsistence costs may be submitted by those entities in which the **decrease in economic turnover**, calculated on a year-to-year basis, **was greater than 30%**. In this situation, the financial support in relation to remuneration costs and the corresponding social security contribution due from the employer will be **up to 50% of the minimum remuneration for work** (i.e. the amount of PLN 1533,09 per employee), with a turnover decrease of **more than 50%**, the aid will be **up to 70% of the minimum remuneration for work** with contributions (PLN 2,146.33 per employee), while **above 80%** decrease in turnover, the employer may apply for funding in the amount of **up to 90% of the minimum remuneration for work** and appropriate contributions (PLN 2,759.56 per employee).

Similarly to the benefits from the GEBF, also this financial support set out in the Act is provided for a maximum of 3 months with the possibility of extension. The conditions for obtaining the given aid are also similar, i.e. good financial standing of the entrepreneur in 2019, assessed according to the criteria specified in the Act. Employees whose remuneration has been subsidized **may not be dismissed** in the period of receipt of the support and equal period following that period, which requires prudence when submitting applications. Breach of this condition leads to the obligation of return of support amount (in proportion to the remaining employment period) without interest.

The Act provides for a short 14-day deadline for submitting an application for assistance - counted from the appropriate announcement in a given district (powiat). In this way, the circle of recipients of this form of assistance is limited to companies that will sooner be affected by the severe slowdown caused by the crisis around COVID-19. Due to the limited resources of the Labor Fund, from which the support is to come, it should be borne in mind that not all entrepreneurs who meet the formal criteria will be able to use this form of assistance.

Managing the company's operations in uncertain times that have become our part is not easy. Taking advantage of the support offered requires quick action and precise completion of the application, which includes a number of statements made under pain of criminal liability. We will be happy to assist our clients in making decisions in this regard and at every stage of the procedure for obtaining support.

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