



EMERGENCY MEASURES COVID-19:

- **Application for deferral of Social Security contributions or liabilities**
- **Temporary lay-off proceedings due to force majeure vs. for objective reasons**

Barcelona, 20 March 2020

SUMMARY

In this News Alert we provide further information regarding the circumstances and procedures for applying for a deferral of Social Security contributions and liabilities.

We also explain the conditions required for temporary lay-off proceedings (ERTE) to be regarded as "force majeure". We will point out the difference with respect to temporary lay-off proceedings for objective reasons (ETOP).

INFORMATION CONCERNING THE APPLICATION FOR THE DEFERRAL OF SOCIAL SECURITY CONTRIBUTIONS OR LIABILITIES

We remind you that, although no exceptional measures have been adopted with regard to the deferral of Social Security contributions, the possibility exists of **applying for a deferral of Social Security contributions or liabilities**. This procedure is intended for **persons or legal entities responsible for payment with temporary cash flow difficulties**.

The deferral application **can only be made for the employer's contributions**, with the **exception of contributions for accidents at work and occupational diseases**. The contributions pertaining to employees (workers' contribution) may not be deferred. To request deferral **the assessment submitted to Social Security authorities must be confirmed** and **the part not giving rise to a deferral will be paid**.

The application for the contribution for which a deferral is requested **must be made online** at the **Social Security Web Portal** in the relevant section and all the necessary documentation must be attached, which **we will send to you if you are interested in applying for a deferral**.

For **deferrals involving amounts under €30,000**, it **will not be necessary to provide security**, or likewise, when **the deferrable liability is less than €90,000** and it is agreed that **at least one**

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third of the liability must be paid within 10 days as from the notification of approval; in other cases, security must be provided.

The **deferral is subject to** the accrual of interest in favour of the Social Security Treasury Department at **the legal interest rate**, which for **2020 is set at 3.75%**. In the case of deferrals in which the party responsible for payment has been exempted from the obligation to provide security for extraordinary reasons, the interest applicable shall be the established late-payment interest plus two points.

ADDITIONAL INFORMATION: TEMPORARY LAY-OFF PROCEEDINGS DUE TO FORCE MAJEURE

As a result of the latest news and our Firm's recent contacts with the Labour Authorities, we believe we should extend the "[News Alert V: Emergency Measures COVID19](#)" sent on 17 March regarding **when a company can and cannot apply for temporary lay-off proceedings due to force majeure**.

The Labour Authorities consider that Royal Decree Law 8/2020 must be interpreted in a restrictive manner and therefore understand that we are concerned with **a suspension of contracts and/or reduction of working hours due to force majeure when the decline in activity is caused DIRECTLY by the declaration of the state of emergency**, i.e. **the suspension or cancellation of business activities** results from the temporary closure of public establishments, restrictions on public transport and, in general, on the mobility of people and/or goods, a lack of supplies that **seriously hampers the continuation of the ordinary course of business** or urgent and extraordinary situations **due to the contagion** of personnel or the adoption of preventive isolation measures decreed by the health authorities.

We may add here that yesterday an **Order of the Ministry of Health** was published ordering the **closure of tourist accommodation establishments**, which means that the temporary lay-off proceedings applied for by these establishments will be **considered as force majeure**.

In contrast, **companies that decide to suspend contracts and/or reduce working hours due to a decline in business** as a result of COVID-19 must make their application through the **ordinary procedure** (although the periods concerned have been abridged) for economic,



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technical, organisational and production reasons, as it is understood that the decline in business is not directly caused by COVID-19 but is RELATED to it.

Therefore the **difference** between applying **one type of lay-off proceedings and the other** is clear:

- Λ the **FORCE MAJEURE** proceedings require the decline in business to be **DIRECTLY CAUSED** by COVID-19
- Λ in temporary lay-off proceedings for **economic, technical, organisational and production reasons**, the decline in business will be **RELATED** to COVID-19.

Finally, we should recall that **the exemption from payment of the employer's social security contributions will only apply in temporary lay-off proceedings due to force majeure.**

We will continue to inform you of any new measures and/or changes in legislation that may arise as a result of the COVID-19 pandemic.

The professionals that regularly work with your company are at your disposal for any clarification or additional information you may require in relation to the content of this Circular Letter. Please contact us by telephone at **934 677 414**.

Yours sincerely,

AUDICONSULTORES

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