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EMERGENCY MEASURES COVID-19: Royal Decree-Law 24/2020 on social measures to reactivate employment and protect self-employment, and on competitiveness in the industrial sector

This News Alert XXXII summarises the measures published in Royal Decree-Law 24/2020, including developments concerning:

- Labour regulations governing temporary lay-off proceedings
- Companies in tax havens and dividends
- The "dismissal ban" and temporary contracts
- Self-employed workers
- Measures on exemption from payment of employers' contributions



ROYAL DECREE-LAW 24/2020

Royal Decree-Law 24/2020 of 26 June includes new developments in the labour regulations governing temporary lay-off proceedings (ERTE). Specifically, the application of the ERTE due to force majeure applied for before the entry into force of this Royal Decree-Law may be extended **until 30 September** at the latest. Companies should gradually reincorporate staff in line with their volume of business, **giving priority to adjustments in terms of reduced working hours**".

The obligation has been maintained to report the full waiver of authorised temporary lay-off proceedings to the employment authorities within 15 days from the effective date of said proceedings, as well as the prior notification to the SEPE of any changes relating to the finalisation of the application of the measure with respect to all or part of the persons concerned, with respect to the number of such persons or the percentage of partial activity within their individual working day, when the relaxation of the restriction measures that impact a company's activities allow these persons to return to work.

Novelties in proceedings due to ETOP (Economic, Technical, Organisational and Productive) reasons

- Those **in force at 27 June 2020** will remain in effect in the same terms.
- Those commencing between 27 June and 30 September 2020 must be based on Article 23 of RDL 8/2020, with the possibility that they may commence while temporary lay-off proceedings due to force majeure are still in effect and that their effects may be backdated to the date on which the previous temporary lay-off proceedings due to force majeure terminate.
- No new outsourcing of the business activity may be carried out nor may new recruitments be arranged directly or through temporary employment agencies except in the event that the employees at the work centre affected by such direct or indirect new recruitments or outsourcing cannot, due to their training, qualifications or any other objective and justified reason, perform the duties to be undertaken by the new hires.
- No overtime will be allowed.
- The obligation to maintain employment for the six months following the resumption of the business activity regulated by additional provision 6 of RDL 8/2020 is maintained for temporary lay-offs for ETOP reasons. For companies benefiting for the first time from the extraordinary measures relating to Social Security contributions, the six-month period of the commitment to maintain employment will commence from that date.



Developments with respect to companies in tax havens and dividends

Companies and entities domiciled for tax purposes in countries or territories classified as tax havens **cannot benefit from the measures established in RDL 24/2020**. In addition, business enterprises or other legal entities that avail themselves of the temporary lay-off proceedings regulated by RDL 24/2020 and make use of the public resources allocated thereto may not distribute dividends for the fiscal year in which said proceedings are applied.

They may do so only if they have previously paid the amount relating to the exemption applied to Social Security contributions and have waived said exemption. However, this limitation on dividend payments will not apply to entities that had fewer than 50 employees at 29 February 2020.

Developments relating to the “dismissal ban” and temporary contracts

- The force majeure event and the ETOP reasons underlying the approval of temporary lay-off proceedings due to force majeure or ETOP derived from Covid-19 **cannot be taken to justify the termination of employment contracts or dismissals**. In this respect, the ban in question is extended to include temporary lay-offs for ETOP reasons (previously it only applied in lay-off proceedings due to force majeure under Art. 22 RDL 8/2020).
- The agreement reached with employers and unions will maintain the ban established by the Government on dismissals for objective reasons until 30 September, which in practice means raising the amount of the relevant compensation to 33 days per year worked as opposed to 20 days for justified dismissals.
- The suspension of temporary contracts, including training, relief and interim contracts, is also maintained until 30 September, which means that these contracts will be extended even if the employer wished to terminate them.

Developments relating to self-employed workers

From 1 July 2020 self-employed persons who on 30 June had been receiving the extraordinary benefit due to the cessation of activity provided for in Article 17 of Royal Decree Law 8/2020 of 17 March will be **entitled to an exemption from their Social Security and vocational training contributions**, as follows:

- Λ 100 percent of contributions for July 2020.
- Λ 50 percent of contributions for August 2020.
- Λ 25 percent of contributions for September 2020.



This exemption will be **incompatible with the cessation of activity benefit**.

- Self-employed workers who until 30 June have been receiving the extraordinary benefit due to the cessation of activity provided for in Article 17 of Royal Decree-Law 8/2020 of 17 March may apply for the cessation of activity benefit.
- To qualify for this benefit it will be necessary to evidence a reduction of at least 75% in income in the third quarter of 2020 compared to the same period in 2019 and that net income exceeding €5,818.75 has not been obtained in the third quarter of 2020. In order to determine the entitlement to the monthly benefit, the net income for the quarter will be pro-rated and may not exceed €1,939.58 per month.

This benefit may be **received until 30 September 2020** at the latest.

- The benefit will be recognised the collaborating mutual benefit funds or the Navy Social Institute on a provisional basis with effect from 1 July 2020 if applied for before 15 July, or with effect from the day following the application in other cases, and must be regularised after 31 January 2021.
- Over the period they receive the benefit, self-employed workers must pay all applicable Social Security contributions at the relevant rates. The mutual benefit fund will pay the worker, together with the cessation of activity benefit, the amount of the contributions for common contingencies that would have been due if the self-employed worker had been completely inactive.

Measures for exemption from payment of employers' contributions, as indicated on the Ministry website.

The exemptions from contributions in all the cases mentioned above will be applied by the Social Security Treasury Department at the request of the company, for which reason the company will previously report the identity of the workers concerned and the duration of the suspension of contracts or reduction in working hours, and will submit a signed statement using the RED System.

EXEMPTIONS UNTIL 30 SEPTEMBER

(see below)



		JULY	AUGUST	SEPTEMBER	
Transition ERTe (Full ERTe due to FM at 30 June)	Companies with under 50 workers	70%	60%	35%	
	Companies with 50 workers or more	50%	40%	25%	
Extension of Partial ERTe due to FM	Companies with under 50	Activated	60%	60%	60%
		Suspended	35%	35%	35%
	Companies with 50 workers or	Activated	40%	40%	40%
		Suspended	25%	25%	25%

For contribution purposes, the workers will maintain their registered status and the relevant contributions will be deemed to be duly paid.

To consult the full text of Royal Decree-Law 24/2020, click [HERE](#).

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 News Alert. Please contact us by telephone at 934 677 414.

Yours sincerely,
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