



# SUPPORT GUIDE COVID-19 MITIGATION MEASURES IN PORTUGAL (UPDATE APRIL 2021)

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## I. INTRODUCTION

On 11<sup>th</sup> March 2020, the World Health Organization declared the appearing of a global pandemic of a new coronavirus, technically called SARS-COV-2, also as known as, Covid-19.

The pandemic had a global impact on sectors from health to the economy, due to, on one hand, the high rate of spread of the disease and, on the other, the varying on the effectiveness of the measures that have been adopted worldwide, namely the more or less severe confinement of the entire population, with a direct impact on consumption and thus on virtually the entire economic fabric.

Since the beginning of the pandemic, the National Assembly and the Government have been adopting a wide range of measures, of the most diverse nature, aimed to mitigate the direct and indirect effects of the pandemic on the Portuguese business fabrics.

With legislative production at a level never seen before, the creation of a document compiling the various exceptional and provisional rules is of central importance for companies and citizens.

This Guide is intended to be a supporting and organizational document for companies and families and does not dispense the consultation of the legislation in force, nor legal consultations aimed to concrete situations.

## II. STATE OF EMERGENCY

On 18<sup>th</sup> March 2020, the President of the Republic asked the National Assembly to declare a state of emergency throughout the country.

Currently, Portugal is already in its fifteenth state of emergency since the beginning of 2020:

State of emergency no.	Dates	President of the Republic Decree no.
1	19.03.2020 to 02.04.2020	14-A/2020
2	03.04.2020 to 17.04.2020	17-A/2020
3	18.04.2020 to 02.05.2020	20-A/2020
4	09.11.2020 to 23.11.2020	51-U/2020
5	24.11.2020 to 08.12.2020	59-A/2020
6	09.12.2020 to 23.12.2020	61-A/2020
7	24.12.2020 to 07.01.2021	66-A/2020
8	08.01.2021 to 15.01.2021	6-A/2021
9	16.01.2021 to 30.01.2021	6-B/2021
10	31.01.2021 to 14.02.2021	9-A/2021
11	15.02.2021 to 01.03.2021	11-A/2021
12	01.03.2021 to 16.03.2021	21-A/2021
13	17.03.2021 to 31.03.2021	25-A/2021
14	01.04.2021 to 15.04.2021	31-A/2021

15	16.04.2021 to 30.04.2021	41-A/2021
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The State of Emergency currently in force is expected to mark a turning point in the imposition of restrictive measures to deal with Covid-19, in the sense that it authorizes the slow and gradual lifting of certain restrictive measures, which may be consulted in Decree No. 4/2021 of 13<sup>th</sup> March.

### A. TERRITORIAL AND TIME SCOPE

Under the terms of the Portuguese Constitution, a state of emergency can only be in force for a period of 15 days. However, it may be extended successively for equal periods, provided that, on one hand, the constitutional preconditions and requirements are maintained and, on the other hand, the National Assembly issues successive authorizations to do so.

The current state of emergency began at 00h00 on 16<sup>th</sup> April 2021 and ends at 23h59 on 30<sup>th</sup> April 2021.

### B. RESTRICTED RIGHTS

The CRP and Law 44/86 determined that the declaration of a state of emergency should contain a specification of the rights, freedoms and guarantees whose exercise was suspended, and the Decree of the President of the Republic of 14<sup>th</sup> April 2021 determined the possibility of suspension of the following rights:

- **Right to the freedom of movement:** the public authorities may impose enforced confinement in the home or in a health establishment and may forbid travel and stay in the public highway with the exception of those aimed at (i) obtaining health care; (ii) providing assistance to others; (iii) travel to the workplace when indispensable and not replaceable by telework; (iv) provision of goods and services; and (v) other compelling reasons specified by the Government;
- **Right of private, social and cooperative initiative:** The public authorities may use, preferably by agreement between the parties, upon fair compensation and to the extent necessary, the resources, means and establishments integrated in the private, social and cooperative sector, related to (i) the provision of health care; and (ii) the guarantee of normality in the production, transport, distribution and supply

of goods and services essential to the activity of the health sector; compulsory opening, closure or alteration of the opening hours of establishments, services, companies or means of production may be decreed; measures may be adopted to control prices, service charges and commissions, including those charged by home delivery platforms; permitted noise levels in residential buildings may be determined so as not to disturb teleworking;

- **Workers' rights:** the presentation to compulsory service of any worker, whether in the public or private sector, may be determined, irrespective of the type of bond, namely health, civil protection, security and defense workers. The right to strike is suspended to the extent that it may compromise the functioning of critical infrastructures or health care units;
- **Freedom to learn and teach:** the public authorities may impose the necessary restrictions to reduce the risk of contagion and the measures to prevent and combat the epidemic, in particular by prohibiting or limiting classroom teaching; a plan should also be drawn up for reopening educational establishments, linked to testing, screening and vaccination;
- **Right to the free development of personality and the negative side of the right to health:** possibility of imposing the use of a mask, body temperature controls and diagnostic tests for SARS-CoV-2;
- **Right to international movement:** possibility of border controls on persons and goods, including sanitary and phytosanitary controls at ports and airports;
- **Right to the protection of personal data:** in the context of the application of the above restrictions.

### **C. STATE OF CALAMITY**

In addition to the state of emergency, states of calamity have also been decreed under the Basic Law of Civil Protection.

On 17<sup>th</sup> May 2020, Council of Ministers Resolution No. 38/2020 was published, decreeing the state of calamity throughout the country until 23:59 on 31<sup>st</sup> May 2020.

The Resolution decreed several exceptional measures aimed at combating the Covid-19 pandemic. However, the constitutionality of those measures is questionable both from an



organic and from a material point of view, as they involve restrictions on rights, freedoms and guarantees, which can only be decided in a state of emergency.

Restrictive measures such as the following have been determined:

- Establishing rules to protect the individual and collective health of citizens;
- Limitation or conditioning of access, movement or residence of persons in spaces frequented by the public, as well as dispersion of concentrations above 10 persons;
- Setting standards for the organization of work, in particular by promoting teleworking, and health, hygiene and safety protection standards;
- Limitation or conditioning of certain economic activities;
- Setting rules for the operation of industrial, commercial and service establishments;
- Rationalizing the use of public transport, communications and water and energy services, as well as the consumption of basic necessities.

The Annex I to the Resolution, which sets out the exceptional and temporary regime for responding to the pandemic, determines, *inter alia*, the obligation of confinement for Covid-19 infected patients, as well as the civic duty of staying at home, and also determines several situations in which failure to comply with this civic duty is permitted and which are generally broader than the permits verified during the state of emergency.

On 14<sup>th</sup> October 2020, Council of Ministers Resolution no. 88-A/2020 was published, which once again decreed the state of calamity throughout the country, from 00:00 of the 15<sup>th</sup> October 2020 until 23:59 of the 31<sup>st</sup> October 2020.

In addition, restrictive measures such as those mentioned below have been decreed:

- Limitation or conditioning of access, movement or residence of persons in spaces frequented by the public, as well as the dispersal of concentrations of more than 5 persons, unless they belong to the same household;
- Limitation or conditioning of certain economic activities;
- Laying down rules applicable to air traffic and airports; and
- Rationalization of the use of public transport, communications and water and energy services, as well as the consumption of essential goods.

In addition, with the publication of Council of Ministers Resolution no. 88-A/2020, among other measures, it was determined:

- The closure and termination of certain establishments;
- The creation of a structure for monitoring the disaster situation coordinated by the Government;
- The activation of policy coordination structures that assess the need to activate the civil protection emergency plan;
- Recommending the use of a mask or visor to people over the age of 10 whenever the physical distance recommended by the National Health Authority proves impracticable; and
- Recommending the use of the STAYAWAY COVID application for those possessing equipment that allows it.

### **III. TAX MEASURES**

The economic and financial challenges posed by the Covid-19 pandemic have led to the adoption of various legislative measures aimed essentially to protect companies and the society.

#### **A. OBLIGATIONS FOR MICRO, SMALL AND MEDIUM SIZED ENTERPRISES AND THE SELF EMPLOYED**

##### **FIRST CONFINEMENT - 2020**

The Government decided to extend the deadline for fulfilling some tax obligations (declaration and payment):

- Extension of the deadline for the submission of "Model 22" Corporate Income Tax Return to the 31<sup>st</sup> July 2020;
- Extension of the first payment on account and the first additional payment on account to the 31<sup>st</sup> August 2020;
- Extension of the delivery obligation of the 2019 Annual Simplified Company Information declaration (IES) to 15<sup>th</sup> September 2020;
- Extension of the deadline for submitting the monthly VAT declaration with the reference to June until 17<sup>th</sup> August 2020;
- Extension of the deadline for submitting the periodic VAT declaration with reference to the period from April to June to 22<sup>nd</sup> August 2020;
- Extension of the period for the constitution and/or submission of the transfer pricing tax documentation procedure until 31<sup>st</sup> August 2020;

- Extension of the deadline for offsetting Stamp Duty paid until 20<sup>th</sup> January 2021;
- Suspension of the monthly Stamp Duty Declaration during 2020; and
- Extension until 30<sup>th</sup> June 2020 of the period for unemployment benefits and all social security system benefits which guarantee minimum subsistence and for which the period for granting or renewal expired at an earlier date.

In addition, the following measures to relax obligations for micro, small and medium-sized enterprises were also approved:

- The possibility of applying in 2020 for full reimbursement of that part of the special payment on account, which was not deducted until 2019, with exemption from the 90-day time limit laid down by law for this purpose (also applicable to cooperatives);
- Temporary remission of the payment on account of the IRC, but may choose to make it in accordance with the law;
- After submission of the corresponding declaration, refund of VAT, corporate income tax and personal income tax, when the result of withholding tax on payments on account or liquidations is higher than the tax due, will be effected within a maximum period of 15 days.

The Government also sought to ensure cash relief measures for companies and the self-employed by approving legislation allowing, with reference to the second quarter of 2020, the possibility of deductions at source of personal and corporate income tax, as well as paying of VAT to customers on the usual terms or in 3 or 6 monthly instalments, without interest (in the first 3 months) and without the need to provide a guarantee.

If the option for the above-mentioned benefit plan is exercised, the first instalment is due on the date of fulfilment of the payment obligation in question, with the remaining monthly instalments due on the same date of the following months.

This measure applies to companies and self-employed workers who meet the following requirements:

- i. A turnover on up to € 10 million in 2018;
- ii. Their activity started as from 1<sup>st</sup> January 2019 (or have started activity again or after 1<sup>st</sup> January 2019 and have not achieved turnover in 2018);
- iii. Their activity is exercised in one of the sectors in which the closure of establishments has been decreed.

Notwithstanding the above, another company or self-employed person who does not meet the above criteria may still apply for the same flexibility in the payment of the above-mentioned tax obligations, relating to the second quarter of 2020, if they demonstrate a decrease in invoicing of at least 20% in the average of the 3 months prior to the month in which this obligation existed compared to the same period of the previous year.

The said reduction should be measured through the invoices communicated through the “Portal E-Fatura” or, alternatively, through the turnover, if the “Portal E-Fatura” does not reflect the totality of the operations carried out by the company or self-employed person subject to VAT (even if this tax is exempt). In any case (“Portal E-Fatura” or turnover), the said statement must be certified by a Certified Accountant.

## **SECOND CONFINEMENT - 2021**

With the publication of Decree-Law no. 99/2020 of 22<sup>nd</sup> November, the tax and contribution obligations for the months of November and December 2020 were also deferred for micro, small and medium-sized enterprises with a turnover of up to € 650.000 in the previous calendar year, and the corresponding periodic returns can be made by 30.11.2020 or in 3 or 6 monthly instalments.

Regarding Stamp Duty, in addition to the delivery of withholding taxes through the multi-tax guide, it was also determined that, during the year 2020, the obligations relating to this tax may be fulfilled until the 20<sup>th</sup> day of the month following the one on which the tax obligation arose.

In addition, it should also be noted that, in complying with tax obligations, it is considered fair impediments (i) the situations of infection by Covid-19; (ii) the situations of prophylactic isolation; and (iii) the establishment of a health fence that prevents taxpayers from moving to and from the areas covered by the fence, provided that they have their tax or professional domicile in the said areas.

## **B. BENEFIT PLANS, SUSPENSION OF PROCEEDINGS AND EXTRAORDINARY EXTENSION OF SOCIAL BENEFITS**

The benefit plans underway in the context of tax executions, and without prejudice to having been punctually complied with, have been suspended on a par with the judicial holiday

scheme. And if this equivalence were to cease before 30<sup>th</sup> June 2020, tax enforcement proceedings would remain suspended until that date.

For the same period, the current instalment plans for social security debts outside the scope of the executive procedures were also suspended.

In addition, unemployment benefits and all social security system benefits that guarantee minimum subsistence and whose concession or renewal period ends at an earlier date were extended until 30<sup>th</sup> June 2020.

On 15<sup>th</sup> January 2021, Decree-Law no. 6-E/2021 was published, which determined the suspension, between 1<sup>st</sup> January and 31<sup>st</sup> March 2021, of tax enforcement proceedings in progress or to be initiated by the Tax Authorities, Social Security and other entities, and this suspension was also applied to benefit plans in progress.

Under the terms of the above mentioned Decree, the Tax Authorities are prevented, during the said period, from providing guarantees, namely pledges, and from offsetting the claims of the defendant resulting from reimbursement, officious review, claim or judicial challenge of any tax act, in its debts collected by the tax administration.

In addition, the suspension of the limitation and forfeiture periods for all types of proceedings and procedures within the scope of tax enforcement proceedings in progress or instituted in the period in question, as well as the cancellation of all sales in progress, within the scope of tax enforcement proceedings, shall be determined.

### **C. PROTECTION OF CREDITS OF FAMILIES, COMPANIES AND PRIVATE INSTITUTIONS OF SOCIAL SOLIDARITY**

To guarantee the continuity of financing for families and companies and preventing possible defaults resulting from the reduction in economic activity a moratorium was approved, until the 30<sup>th</sup> September 2020, which provides with the prohibition of revocating contracted credit lines, as well as the extending or suspending the credits until the end of this period.

In accordance with the provisions of Item 17 of the General Stamp Duty Table, the extension of the term of a credit agreement is considered to be a new credit concession for the purposes of this tax, determining, as such, the birth of a new taxable event.

Thus, and in the context of the extraordinary measures that have been approved, the Director General of Taxes clarified, by means of Circular no. 6/2020, that there will only truly be an extension (generating a new tax event) when the new period constitutes an addition to the previously established period, with effect only after its expiry ("*ex nunc*" effects).

On the other hand, if the original deadline is replaced by a different deadline, i.e. with retroactive effect ("*ex tunc*" effects), Stamp Duty will only be due if the new deadline corresponds to a rate higher than the original rate, the tax being assessed by the rate differential (if any).

In this context, for credits with a determined or determinable period of use, the capitalisation of interest accrued during the extension period shall not give rise to a new Stamp Duty, as opposed to items 17.1.1 to 17.1.3 or 17.2.1 to 17.2.3 of the General Stamp Duty Table.

In addition, a system of personal State guarantees has also been put in place to deal with situations of national economic emergency caused by exceptional and temporary circumstances, and the provision of guarantees by mutual guarantee companies has also been facilitated on a temporary basis and provided that certain conditions are met.

#### **D. REDUCTION OF VAT RATE FOR MASKS AND DISINFECTANT GEL**

As part of the tax measures which have been approved in the epidemiological context, VAT has been reduced to the reduced rate of 6% applicable to the sale of masks for respiratory protection and disinfectant gel.

This reduction, which was introduced by Law no. 13/2020 of 7<sup>th</sup> May, expired on 31<sup>st</sup> December 2020. However, given the circumstances and evolution of the pandemic in Portugal, under Article no. 380 of Law no. 75-B/2020 of 31<sup>st</sup> December, this reduction is still in force.

Under the terms of this new Law, in addition to the VAT rate reduction, there is also the possibility of deducting part of the value incurred in the acquisition of these items from the personal income tax. In this context, the technical specificities to which skin disinfectant gel must comply in order to benefit from the respective tax incentives have also been updated.

Thus, products that comply with the specificities set out in the Order of the members of the Cabinets of the Secretaries of State for Trade, Services and Consumer Protection, of the

Deputy and of Tax and Health Affairs, namely Order no. 1053/2021 of 26<sup>th</sup> January, will benefit from the reduced rate.

### **E. CUSTOMS DUTY RELIEF AND EXEMPTION FROM VAT ON IMPORTS OF GOODS NEEDED TO COMBAT THE OUTBREAK OF COVID-19**

Commission Decision (EU) no. 2020/491, dated 3<sup>rd</sup> April 2020, provides for the granting of duty-free treatment and exemption from VAT on the import of goods (from third countries) to combat the effects of the Covid-19 outbreak.

The adoption of this decision is taking place within the EU's legal framework which provides for the possibility of granting relief from customs duties to victims of disasters, which is subject to a Commission decision acting at the request of the Member States concerned.

Similarly, EU VAT legislation (Council directive no. 2009/132/EC) has equivalent provisions concerning exemption from VAT on the final importation of certain goods.

According to statements of the President of the Commission, this measure makes it financially easier to purchase medical equipment, including goods such as masks and protective equipment, test kits, ventilators, and other medical equipment.

The Commission Decision comes in response to requests from several Member States: Germany, France, Spain, Portugal and Italy.

The United Kingdom is also covered by this Commission Decision and has made a similar request for aid to other Member States to ensure duty-free treatment and exemption from VAT on imports of goods necessary to combat the Covid-19 outbreak. To that end, the Commission invoked the article of the Exit Agreement which allows the application of the Union measures during the transitional phase.

By this Decision, the Commission provides with the possibility, for public organizations in the Member States and/or other organizations authorized by them, to import, free of charge and VAT, goods which qualify as necessary in the fight against the pandemic and which are intended for free distribution to persons affected by Covid-19 as well as to persons participating in the fight against the disease.

To this end, Member States will have to communicate the following information to the Commission by 30<sup>th</sup> November 2020:

- (i) a list of organizations approved by the competent authorities of the Member States to carry out the import operations of goods intended for combating Covid-19;
- (ii) nature and quantity of goods imported under this scheme;
- (iii) the measures implemented to ensure that imported goods are not transferred free of charge or against payment after being allocated for their intended purpose (with a view to preventing any attempt to abuse this system of exception and which are provided for in the Directives and Regulations governing customs duties and the harmonized system of VAT).

The rules contained in this Decision were applied since the 30<sup>th</sup> January 2020 and were extended until 31<sup>st</sup> October 2020.

#### **F. EXEMPTION ON INTRA-COMMUNITY ACQUISITION OF GOODS NECESSARY TO COMBAT COVID-19**

Following the abovementioned European Commission (EU) Decision 2020/491, which grants relief from customs duties and VAT on the importation of goods (from third countries) to combat the effects of the Covid-19 outbreak, the National Assembly approved the extension of the abovementioned VAT exemption to intra-Community acquisitions of goods.

According to the approved Order, the Government intends to ensure the correct application of the principle of neutrality and the elimination of distortions in competition.

To this end, an exemption is established for intra-Community transfers and acquisitions of goods made within the national territory, when they are intended for State bodies, charitable or philanthropic organizations approved by the competent authorities, and when they are intended to be distributed or made available to victims of disasters, while remaining the property of the bodies concerned.

To this end, this new law contains an annexed table listing the goods which are covered by this exemption measure.

As far as the subjective criterion is concerned, this new measure stipulates that the following entities are eligible for VAT exemption on intra-Community acquisitions of the goods listed:



- The State, Autonomous Regions or local authorities, as well as any of their services, establishments and bodies, even if personalized, including public institutes;
- Health establishments and units that make up the National Health Service (SNS), including those that take the legal form of corporate public entities;
- Other establishments and health units in the private or social sector, provided they are included in the national plan of the SNS to combat OVID-19, having contracted this obligation with the Ministry of Health, and identified on a list to be approved by order of the members of the Government responsible for the areas of finance, health and labor, solidarity and social security;
- Entities with charitable or philanthropic purposes, previously approved for that purpose and identified on a list to be approved by order of the Government members responsible for the areas of finance, health and labor, solidarity and social security.

It is also worth mentioning the determination of the possibility of deducting the tax levied on goods or services acquired, imported, or used by the taxable person to carry out the transfers of goods exempted under this rule.

Finally, regarding the compliance with formal requirements, it is established that the invoices that hold these transactions must contain a reference to the legal provision that allows them to be carried out under an exemption regime.

Under the terms of Law no. 43/2020 of 18<sup>th</sup> August, the exemption scheme just described was applicable to intra-Community transfers and acquisitions of goods carried out on national territory between 30<sup>th</sup> January 2020 and 31<sup>st</sup> October 2020.

## **G. INCREASE IN DONATIONS**

The Order no. 137/2020-XXII of 3<sup>rd</sup> April 2020 of the Secretary of State for Tax Affairs determined that, during the period of emergency, shall be considered an entity falling within the scope of Article 62 no. 1 (a) of the Corporate Tax Income Code the SPMS – Shared Services of Health Office, E.P.E, hospital entities, E.P.E and the Regional Health Services, as entities benefiting from donations, are considered to be within the scope of Article 62(1)(a) of the Tax Benefits Statute.

This framework will allow donor entities to benefit from the planned scheme, for donations made to the State and public law entities and consisting of a 140% increase in the cost of donations of a social nature.

These donations also benefit from the exclusion of Stamp Duty.

The purpose of this Order is to recognize donations made to the National Health System, which would be on the fringes of this benefit, given the understanding of the Tax Administration that entities operating under the designation of E.P.E. are not eligible for the application of the markup provided for donations granted to the State and public law entities.

#### **H. TEMPORARY SPECIAL SCHEME FOR THE ORGANIZERS OF THE UEFA CHAMPIONS LEAGUE 2019/2020 FINALS**

Facing the context of the UEFA Champions League 2019/2020 Finals, in Lisbon, Law no. 43/2020 of 18<sup>th</sup> August was published, which established the exemption, in terms of Corporate Tax Income and Personal Tax Income, of the income received by the organizers of this event, their representatives and employees, as well as the football clubs, their sportsmen and technical teams, namely coaches, medical and private security teams or other support staff.

In addition, only entities that are not considered to be resident in Portuguese territory may benefit from this exemption regime.

#### **I. ADVANCE REIMBURSEMENT OF UNUSED SPECIAL PAYMENTS ON ACCOUNT**

In July 2020, Law no. 27-A/2020 of 24<sup>th</sup> July was published, which made the second amendment to Law no. 2/2020 of 31<sup>st</sup> March (State Budget Law for 2020), which sought to adapt the latter law to the economic and financial challenges posed by the Covid-19 pandemic.

Under this new legislative provision, SMEs will be able to request, in 2020, the full reimbursement of the part of the special payment on account that has not been deducted, until 2019, without considering the deadline provided for this in the Corporate Tax Income Code.

This measure was subsequently regulated by SEAF Order no. 12622/2020, which stipulated that the payments on account to be considered in the request for refund should be those for the tax periods 2014 to 2019, if they had not been deducted until the periodic income declaration of 2019.

The refund request must be addressed to the Tax Authorities via “E-Balcão” online service by the end of January 2021, or by the end of the 6<sup>th</sup> month following the deadline for submitting the periodic income return, if the tax period for 2019 does not coincide with the calendar year.

## **J. STAMP DUTY EXEMPTION ON EXPORTATION CREDIT INSURANCE POLICIES**

On 31<sup>st</sup> December 2020 was published Decree-Law no.109/2020, which provided an exemption of Stamp Duty on the exportation credit insurance policies in respect of tax events occurring up to 31<sup>st</sup> December 2022, specifically on:

- Exportation credit insurance policies, including financial credit insurance and foreign surety insurance, granted with or without a State guarantee, provided that, in either case, the tax constitutes a burden on the exporter and the exporter is acting in the context of his export activity;
- Guarantees of obligations, in the form of foreign bank guarantees or foreign insurance-security, provided that, in either case, the tax constitutes a burden on the exporter and the exporter is acting in the context of its export activity;
- Guarantees provided by the State within the scope of the insurance policies referred to above and issued until 31<sup>st</sup> December 2022, pursuant to Article 15 and following of Decree-Law no. 183/88, of 24<sup>th</sup> May as currently worded.

## **K. VAT EXEMPTION ON THE TRANSFER OF IN VITRO DIAGNOSTIC MEDICAL DEVICES FOR COVID-19, VACCINES AGAINST THE SAME DISEASE AND THE SUPPLY OF SERVICES RELATED TO THESE PRODUCTS**

On 17<sup>th</sup> February 2021, Law no. 4-C/2021 was published, which transposed Council Directive (EU) 2020/2020.

The decree-law determines the exemption of the following transfers of goods and provisions of services:

- The transmissions, intra-Community acquisitions and imports of medical devices for in vitro diagnosis of the COVID-19 disease that conform to the applicable requirements;
- The transmissions, intra-Community acquisitions and imports of vaccines against COVID-19 disease authorized by the European Commission or by the national health authorities;
- The supply of services closely related to the devices or vaccines referred to in the previous sub-paragraphs.

Invoices documenting the aforementioned transfer of goods or provision of services must contain express reference to Law 4-C/2021 of 17<sup>th</sup> February. The law also determines the express deductibility of VAT charged on goods or services acquired, imported or used by the taxpayer for the transfer of goods or services exempt under the terms set out above.

The Law came into force on 18<sup>th</sup> February 2021 and will remain in force until 31<sup>st</sup> December 2021.

## **L. EXCEPTIONAL AND TEMPORARY REGIME FOR TAX AND SOCIAL SECURITY OBLIGATIONS AND DEBTS DURING THE YEAR 2021**

On 26<sup>th</sup> March 2021, Decree-Law no. 24/2021 was published, by which the Government, with a view to ensuring liquidity to companies and preserving their activities, amends the wording of Decree-Law no. 10-F/2020, of 26<sup>th</sup> March, on the regime of deferral of compliance with tax obligations and social contributions.

In this context, the possibility of paying VAT for the 1<sup>st</sup> quarter of 2021 in three or six monthly instalments is no longer applicable only to taxpayers with a turnover of less than €2.000.000 in 2019.

In fact, through this new Decree-Law, this possibility is extended to IRS and IRC withholdings.

To do so, taxpayers must have obtained, in 2019, a turnover up to the maximum limit of the classification as micro, small and medium-sized enterprise, and must also demonstrate a decrease in turnover, reported through the “E-Fatura” of at least 25% of the monthly average of the full calendar year of 2020 in relation to the same period of the previous year.

If the taxpayers have their main activity in the accommodation, restaurant or cultural sectors, or have started or restarted the activity on (or after) 1<sup>st</sup> January 2020, they are exempt from that proof.

Regarding the obligation to pay the corporate income tax (CIT) for the 2020 tax period of taxpayers who have obtained, in that period, a turnover up to the maximum limit of the classification as a micro, small or medium-sized company, these may -without prejudice to the possibility of complying with the general terms- choose to pay in instalments, in an amount equal to or higher than € 25 and without interest, divided as follows:

- a first instalment of at least 25% of the amount resulting from the difference between the total tax calculated on the periodic tax return and the amounts that have been paid on account; and
- the remaining amount is to be paid in three equal monthly instalments, due on the same date of the following months;

The adhesion to the instalment payment must be exercised until the last day of the period fixed for sending the periodic income declaration.

This regime is also applicable to the first and second payments on account for the 2021 tax period, with the necessary adaptations.

In addition, the rule in the CIT Code that provides that taxpayers may refrain from making the third payment on account (if they find that the amount of the payment on account already made is equal to or greater than the tax that will be due on the basis of the taxable income) may be applied, with the necessary adaptations, up to 50% of the second payment on account due for the 2021 tax period, provided that the taxpayer has obtained, in the 2020 period, a turnover up to the maximum limit for classification as a micro-enterprise.

In this context, should taxpayers find that, as a result of the reduction in the second advance payment, an amount greater than 20% of that which, under normal conditions, should have been paid might not be paid, they may settle the amount in question until the last day of the deadline for the third payment, free of any onus or charge.

Regarding Social Security amendments, this new Decree-Law also introduces an exceptional regime of payment in instalments for tax debts and Social Security contribution debts.

In this context, with reference to instalment plans for debts relating to events occurring between 1<sup>st</sup> January and 31<sup>st</sup> March 2021 and debts due during the same period, the first instalment must be paid in the second month following that in which the order authorizing payment in instalments is notified, with the same delay applying to the resumption of payment of instalments of plans approved before 1 January 2021.

## IV. MEASURES ON SOCIAL SECURITY AND CONTRIBUTIONS

### A. SOCIAL CONTRIBUTIONS

Employers in the private and social sectors with less than 50 employees or employers with up to 249 employees showing a drop of at least 20% in their turnover (based on data contained in the “E-Fatura” online portal) in March, April and May 2020 compared to the same period of the previous year, have the right to **defer the payment** of contributions.

Private social solidarity institutions or similar, employers in closed sectors, aviation, or tourism, even if they have 250 or more workers, may also benefit from the deferment, if they show a drop in invoicing in terms like those mentioned above.

Regarding the employer's contributions due in March, April, and May 2020, 1/3 of the amount of the contributions must be paid in the month in which they are due, the remainder being paid in equal and successive instalments in July and September 2020 or in July to December 2020, without interest.

**Self-employed workers** also benefit from this deferment during the months of April, May and June 2020, and these contributions may be paid in terms like those mentioned above.

Failure to meet the requirements for access to deferment of payment of contributions implies the immediate maturity of all the outstanding instalments and the cessation of the interest exemption.

With the publication of Decree-Law no. 99/2020 of 22<sup>nd</sup> November, the payment of contributions for November and December 2020 was also deferred for self-employed workers and employers in the private and social sectors classified as micro, small, and medium-sized enterprises.

Employers' and self-employed workers' contributions may be paid in three or six successive interest-free instalments from July to September or July to December 2021.

It should be noted that there is also the additional possibility of deferring contributions due by the **self-employed workers** if they receive social benefits, a scheme provided in cases of:

- a proven situation of total cessation of its activity or its sector, upon its own declaration; or

- a situation of a sharp and abrupt fall of at least 40% in invoicing (in the thirty-day period preceding the application to the competent social security services, with reference to the monthly average of the two months preceding that period, or to the same period of the previous year, or, for those who commenced business less than 12 months ago, to the average for that period), by means of a declaration by themselves accompanied by a Certified Accountant's certificate.

The deferment shall apply for each month in which they receive the said benefit.

## **B. TEMPORARY EXEMPTION FROM PAYMENT OF SOCIAL SECURITY CONTRIBUTIONS**

In addition to the main measures (the extraordinary support for job retention and the training plan), employers are entitled with a full exemption on the payments of social security contributions for the workers covered and members of statutory bodies for the duration of the measures.

The right to the exemption provided for in the previous paragraph shall also apply to self-employed workers who are employers benefiting from the measures and their spouses (who continue to be required to submit a quarterly declaration).

The exemption relates to contributions relating to remuneration for the months in which the company is the beneficiary of the main measures. The exemption from the payment of contributions for self-employed workers determines the registration of remuneration by equivalence to the entry of contributions according to the tax base that is applicable.

Employers must submit autonomous remuneration statements for the employees concerned and pay their contributions, the exemption covering only the employer's contributions.

This exemption is recognized *ex officio*, namely based on the information transmitted by IEFP, I. P.



## V. LABOUR MEASURES - COMPANIES AND WORKERS

The rapid evolution of Covid-19 pandemic made it necessary to reinforce the first measures adopted on the labor field, to assure job retention and mitigate corporate crisis situations.

Over the several months, the legislative output in labor law has been immense.

### A. BUSINESS CRISIS SITUATIONS

Exceptional measures apply to private sector employers, including employers in the social sector, and workers in their service who are affected by the Covid-19 pandemic and are therefore in **business crisis**.

In the mentioned context, the following situations reveal, for companies and entrepreneurs, a **business crisis**:

- The total or partial closure of an undertaking or establishment as a result of the obligation to close plants and establishments;
- A crisis situation contained in a declaration by the employer accompanied by a certificate from the undertaking's Certified Accountant certifying:
  - a) the total or partial stoppage of the company's or establishment's activity resulting from the interruption of global supply chains or the suspension or cancellation of orders; and/or
  - b) the abrupt and sharp drop of at least 40% in invoicing in the 30-day period (instead of the 60 days provided for in the scheme now revoked) prior to the application to social security, with reference to the monthly average of the 2 months preceding that period, or in relation to the same period of the previous year, or, for those who started business less than 12 months ago, to the average of that period.

Proof of the truthfulness of the facts can only be provided by means of providing the following documents:

- The accounting balance sheet for the month of the support as well as for the corresponding month or previous months, where applicable;
- The VAT declaration for the month of the support as well as for the 2 immediately preceding months, or the declaration for the last quarter of 2019 and the first quarter of 2020;

- Documents demonstrating that orders or reservations have been cancelled, with the result that the use of the affected business or unit has been reduced by more than 40% of its production or occupancy capacity in the month following the support request; and
- Additional evidence to be established by Order of the member of the Government responsible for the area of labor and social security.

## **B. EXTRAORDINARY SUPPORT FOR THE MAINTENANCE OF EMPLOYMENT CONTRACTS ("SIMPLIFIED LAY-OFF")**

The most awaited measure is the extraordinary support for maintaining an employment contract in a company in a business crisis.

This measure supports companies that find themselves in the need to reduce normal working time or even to suspend employment contracts (a procedure known as "**lay-off**") and can be combined with a vocational training plan appropriate to the development of professional qualifications that increase the employability or the viability of the company and the maintenance of jobs, approved by the IEFP, which will support the amount of € 131,64 intended in equal parts for the employer and the worker.

The employer may **reduce the normal working period** or **suspend the employment contracts** of his employees, while maintaining the rights, duties and guarantees of the parties to the employment relationship not presupposing the actual performance of work.

To carry out the suspension, the employer must notify the workers in writing of the decision to reduce the normal working period or to suspend their employment contracts, indicating the correspondent foreseeable duration.

During the period of reduction or suspension, workers are entitled to receive a compensation corresponding to a minimum amount equal to 2/3 of their gross normal pay or the value of the **guaranteed minimum monthly wage** (currently set at € 635) corresponding to their normal working period, depending on which is higher. In the event of a reduction in the normal working period, the worker's pay is calculated as a proportion of the hours worked.

This limit was modified by Decree-Law no. 22-A/2021, of 19<sup>th</sup> March, which determined that during the period of reduction of the NTP, the retributive compensation will be 4/5 of their

normal illiquid retribution, up to three times the minimum monthly guaranteed retribution (RMMG).

Ministerial Order no.94-A/2020 stated that the calculation of compensation takes into account the remuneration benefits normally declared for Social Security and normally received by the employee, relating to basic pay, monthly bonuses and regular monthly allowances.

The application for extraordinary support for the maintenance of employment contracts must be submitted electronically to the competent Social Security department and must be instructed with:

- a declaration by the employer containing a summary description of the business crisis situation which is affecting him; and
- a certificate from the company's Certified Accountant attesting the situation in which occurs a total or partial disruption of the supply chain or suspension or cancellation of orders; and
- a nominal list of workers covered and their Social Security identification number.

The inclusion of new workers during the period of granting the extraordinary support for the maintenance of employment contracts, in addition to those identified in the initial application, is done by submitting a new attached file. For these workers, the payment of the support is granted for the remaining period.

Under the terms of Order in Council no.94-A/2020, the entities receiving the support must preserve the relevant information for a period of 3 years, for the purpose of verifying the facts on which the application is based and the respective extensions.

Under the terms of Decree-Law 23-A/2021, of 23<sup>rd</sup> March, employers who experience a total or partial stoppage of activity of the company or establishment of more than 40% in the month prior to the application to be made in March and April 2021, and which results from the interruption of global supply chains, or the suspension or cancellation of orders, in situations where more than half of the turnover in the previous year was made in activities or sectors that are currently suspended or closed by legislative or administrative determination from a government source, will also be able to access this support.

### C. EXTRAORDINARY TRAINING PLAN

Companies that have not made use of the extraordinary support for maintaining employment contracts may have access to extraordinary support for part-time vocational training, through a training plan, with the purpose of maintaining their workers and enhancing their skills, acting preventively on unemployment.

These plans are supported by IEFP, and are granted according to the hours of training attended, up to a limit of 50% of the gross remuneration, with a maximum limit of one guaranteed minimum monthly wage. This measure has a duration of one month and is intended for the implementation of the training plan.

The employer informs the workers in writing of the decision to start a training plan and of the foreseeable duration of the measure, and immediately forwards this information to the IEFP, together with the documents referred to in connection with the investigation of the application for support to maintain jobs, referred to above.

### D. EXTRAORDINARY FINANCIAL INCENTIVE

Employers who benefit from the measures described above are entitled to an ancillary measure consisting of an **extraordinary financial incentive to support the resumption of business activity**, to be granted by the IEFP, I.P., paid in one lump sum and with the value of one guaranteed minimum monthly wage per worker.

The employer must apply to the IEFP, accompanied by the documents required to prove the business crisis situation, listed above.

### E. EXTRAORDINARY SUPPORT FOR THE REDUCTION OF ECONOMIC ACTIVITY

This support applies to **self-employed workers** who have had a contribution obligation for at least 3 consecutive months or 6 interpolated months in the last 12 months, and which are in the following situations:

- A proven situation of cessation of their activity or of the activity of their sector as a result of the Covid-19 outbreak;

- A situation on at least 40% of their turnover has fallen in the 30-day period preceding their application to Social Security, attested by their own declaration and certified accountant's certificate.

This breakdown of invoicing in the 30 day period prior to the order is compared with:

- the monthly average of the two months preceding the order; or
- the same period as the previous year; or
- the average of the whole period in activity, for those who started less than 12 months ago.

The measure consists on a financial support, corresponding to the amount of the remuneration recorded as a contributory base, with a limit of 1 IAS (€ 438,81) in situations where the amount of the remuneration recorded as a contributory base is less than 1.5 IAS (€ 658,22).

When the remuneration recorded as a contributory base is equal to or higher than 1.5 IAS (€ 658.22), the beneficiary is entitled to a financial support corresponding to 2/3 of the value of the remuneration recorded as a contributory base with the maximum limit equal to the guaranteed minimum monthly wage.

The calculation of the extraordinary support due to the reduction of economic activity, Ministerial Order no. 94-A/2020 is established as follows:

- for **self-employed workers**: average of the contribution base of the months in which pay was recorded in the 12 months immediately preceding the date of submission of the application;
- for **managing partners**: basic remuneration declared in March 2020 for the month of February 2020 or, if there was no basic remuneration declared in that month, the amount of Social Support Indexant.

Beneficiaries must preserve the information relevant to the granting of the support for a period of 3 years and the support has a duration of 1 month, extendable up to 6 months.

On 23<sup>rd</sup> March 2021, Decree-Law no. 23-A/2020 was published, which determined the possibility until June 30<sup>th</sup>, 2021, to confer to self-employed workers, sole proprietors, managers whose activity falls within the sectors of tourism, culture, events and shows, and who are in a situation of proven total cessation of their activity or the activity of the

respective sector, as a result of the pandemic disease COVID-19, the right to use the extraordinary support for the reduction of economic activity for the corresponding period, under the terms of Article 26.º of Decree-Law no. 10-A/2020, of March 13<sup>th</sup>.

## F. PROHIBITION OF DISMISSAL

During the period of application of the support measures, as well as in the following 60 days, the employer covered by any of the previous measures must not terminate contracts of employment under the terms of collective dismissal or dismissal for termination of employment.

Declaration of Amendment no. 14/2020, of 28<sup>th</sup> March, clarified that the subject of this impediment is the employer benefiting from some extraordinary measure, and therefore applies to all employment contracts to which the employer is a party and not only, as seemed to result from Decree-Law no. 10-G/2020, to those that concern the workers covered.

## G. JUSTIFIED ABSENCES

Decree-Law No 10-K/2020 establishes an **exceptional and temporary regime of justified absences** motivated by family assistance or by the performance of certain functions considered relevant in the context of the pandemic.

Under the present exceptional regime, justified absences are:

- those motivated by the care of a dependent child or other dependent under the age of 12 or, regardless of age, with a disability or chronic illness, or a grandchild (in some cases), in the periods of school breaks fixed by legislation or defined by each school;
- those motivated by assistance to a spouse or person living in a non-marital partnership or common economy with the worker, a relative or kin in the ascending straight line who is in the worker's care and who attends social facilities whose activity is suspended, provided that continuity of support through an alternative social response is not possible;
- those motivated by the provision of relief or transport, in the context of the Covid-19 pandemic, by voluntary firefighters with an employment contract with an employer in the private or social sector, and proven to be called by the respective fire brigade.

The justified absences under the previous paragraph do not lead to the loss of any rights, except in relation to remuneration, and do not count towards the annual limit of absences provided for in the Labor Code.

On 27<sup>th</sup> November 2020 was published the Decree-Law no. 101-A/2020, which added a new article to Decree-Law no. 10-K/2020, stating that absences motivated by the care of a child or other dependent under 12 years of age or, regardless of age, with a disability or chronic illness, as well as a grandchild living with the worker at the table and in the home and who is the child of an adolescent under 16 years of age, arising from the suspension of teaching and non-teaching and formative activities, shall also be considered justified absences.

## **H. VACATIONS**

More innovative is what was introduced regarding the possibility of the worker booking a holiday **without the need to agree with the employer**, to provide assistance in the situations envisaged and mentioned above.

For this purpose, a written notice given to the employer two days before the beginning of the desired holiday period is sufficient.

During the holiday period, the employee is entitled to a salary corresponding to that which he would have received if he had been in actual employment, and the holiday allowance may be paid in full up to the fourth month following that in which the holiday period begins.

## **I. TELEWORKERS RESIDENT IN PORTUGAL SUBJECT TO SOCIAL SECURITY LEGISLATION OF ANOTHER STATE**

For workers resident in Portugal covered by the Social Security legislation of another Member State of the European Union, the European Economic Area or Switzerland, periods of teleworking provided from the national territory during the period of exceptional and temporary measures in response to the epidemiological situation caused by COVID-19 will not be taken into account for the determination of the applicable legislation and will not imply the amendment of the legislation to which they are subject.

## **J. SUSPENSION OF VERIFICATION OF THE REQUIREMENT OF NON-EXISTENCE OF DEBTS FOR APPLICANTS OR PROMOTERS TO IEFP**

Ministerial Order no.94-B/2020, of 17<sup>th</sup> April, suspended need for the verification of the requirement of no debts for applicants or promoting entities to the IEFP, I.P., for the approval of applications and payment of financial support by the IEFP, I.P., to the respective entities, within the scope of the employment and vocational training measures in force.

This measure entered into force on 18.04.2020, taking effect on 01.03.2020 and runned until 30.06.2020.

## **K. “ADAPTAR” PROGRAM**

At the end of the period of implementation of the State of Emergency, the need to safeguard the public health on the resumption of activities which, due to the established limits to economic freedom, had strong impacts on their normal activity remained.

The progressive lifting of restrictions on the exercise of economic activities is accompanied by measures relating to the need to comply with specific operating conditions, with companies having to adapt their establishments and their activities.

In line of the abovementioned, “Adaptar” Program has been set up, being a system of incentives designed to adapt economic activity to the new context created by Covid-19, which will make it possible to reduce the increased costs of rapidly re-establishing the conditions under which businesses operate - projects in the fisheries and aquaculture sector, primary agricultural production and forestry, the gambling sector, among others, are not eligible for this program.

## **L. MICROENTERPRISES SUPPORT**

Support for microenterprises - enterprises employing less than 10 people and whose annual turnover or annual balance sheet does not exceed € 2 million - is given in the form of a non-repayable grant, with an incentive rate of 80% on eligible expenditure.

The following criteria must be met so microenterprises can obtain the mentioned support:

- a) Microentreprises eligibility criteria:
  - Be legally constituted on 01.03.2020;



- Have a system of organized accounts;
  - Meet the necessary conditions to obtain micro-enterprise status; and
  - Have, or being able to obtain, until the signature of the acceptance letter, the tax and social security situation regularized with the Tax Authorities and the Social Security.
- b) Projects eligibility criteria:
- Have the aim to make an investment, of not less than € 500 and not more than € 5.000, in eligible expenditure to adapt the company's activity to the context of Covid-19 pandemic;
  - Have a maximum implementation period of 6 months from the date of notification of the favorable decision, with a deadline on 31.12.2020; and
  - Be in conformity with the legal and regulatory provisions applicable to them.
- c) Expenses eligibility criteria:
- Purchase of personal protective equipment, required for a maximum period of six months, for use by workers and customers in spaces with public attendance, namely masks, gloves, visors and others;
  - Purchase and installation of hygiene equipment and automatic dispensing of disinfectants, as well as respective consumables, for a maximum period of six months, namely disinfectants;
  - Hiring of disinfection services for a maximum period of six months;
  - Purchase and installation of automatic payment devices, including those using contactless technology, including the costs of contracting the service for a maximum period of six months;
  - Initial costs associated with domiciliation of applications, initial adhesion to electronic platforms, initial subscription of applications in "software as a service" schemes, creation and initial publication of new electronic content, as well as inclusion or cataloguing in directories or search engines;
  - Reorganization and adaptation of workplaces and space layout in accordance to the guidelines and good practices in force in the current context, namely, installation of automatic doors, installation of sensor lighting solutions, installation of sensor dispensers in bathrooms, creation of contingency areas, among others;

- Physical insulation of production or sales or service spaces, namely, installation of partitions between equipment, production cells, desks, service stations or counters;
- Acquisition and installation of other control and physical distancing devices;
- Costs with the acquisition and placement of information and guidance to employees and public, including vertical and horizontal signs, inside and outside the spaces;
- Expenses with the intervention of Certified Accountants or statutory auditors, in the validation of the expenditure of payment requests.

Applications are submitted using the simplified electronic form available at Balcão 2020.

### **M. SUPPORT FOR SMALL AND MEDIUM-SIZED ENTERPRISES (“SME”)**

Support to SMEs - companies employing less than 250 people and whose annual turnover does not exceed € 50 million or whose annual balance sheet total does not exceed € 43 million and which have the corresponding electronic certification - is granted in the form of a non-refundable grant, with an incentive rate of 50% on eligible expenses.

The following criteria must be met so SMEs can obtain the mentioned support:

a) SMEs eligibility criteria:

- Being legally constituted on 01.03.2020;
- Have a system of organised accounts;
- Have their tax and social security situation regularized with the Tax Authorities and the Social Security;
- Have regularized their situation on refunds, within the framework of financing from the European Structural and Investment Funds (EIF);
- Have Electronic Certification proving their SME status;
- Not being companies in difficulty;
- Declare that they are not a company subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the Internal Market.

b) Projects eligibility criteria:

- Have the objective of making an investment of a value in eligible expenditure of not less than € 5.000 and not more than € 40.000, for the qualification of processes, organizations, products and services of SMEs, in particular the

adaptation of their establishments, methods of organizing work and relations with customers and suppliers to the new conditions in the context of Covid-19 disease;

- Not to be started by the date of application;
- Have a maximum implementation period of 6 months from the date of notification of the favorable decision, with deadline on 31.12.2020;
- Be in conformity with the legal and regulatory provisions applicable to them.

c) Eligible expenses: the same mentioned above for the microenterprises.

Applications are submitted using the simplified electronic form, available at Balcão 2020.

Note:

SMEs must also comply with the obligations set out in Decree-Law no. 159/2014 of 27<sup>th</sup> October and the conditions established in the Specific Regulations for Competitiveness and Internationalization, which are related to the conservation of information, maintenance of the legal conditions necessary for the exercise of the activity, collaborate with the entities that supervise and audit SMEs that apply for this type of support, among others.

## **N. EXCEPTIONAL AND TRANSITIONAL REGIME FOR THE REORGANIZATION OF LABORING**

On the 1<sup>st</sup> October 2020 was published the Decree-Law No. 79-A/2020, amended by Decree-Law No. 99/2020 of 22<sup>nd</sup> November, establishing an exceptional and transitional regime for the reorganization of work and the minimization of the risks of transmission of the Covid-19 within the framework of labor relations. This law is in force at least until 31<sup>st</sup> March 2021.

This diploma covers companies with workplaces with 50 or more workers, in the territorial areas where the Government decrees.

The diploma determines the following set of rules:

- The employer must organize the hours of entry and exit from the workplaces in a staggered manner, guaranteeing minimum breaks of 30 minutes up to a limit of 1 hour between groups of workers;
- The promotion of the constitution of stable work teams, so that the contact between workers takes place only between workers of the same team or department;
- The alternation of breaks for rest, including meals, between teams or departments in order to safeguard social distance between workers;
- The promotion of telework, whenever the nature of the activity permits it;

- The use of appropriate personal protective equipment in situations where physical distance is manifestly impracticable due to the nature of the activity.

To comply with the rules mentioned above, the employer may change working hours up to a maximum of 1 hour, unless such change causes serious damage to the employee, namely the lack of collective passenger transport to comply with the new timetable or the need to provide urgent and essential assistance to the family. Changes must be notified to the worker 5 days in advance and must be maintained for periods of at least 1 week.

## **O. EXTRAORDINARY FINANCIAL INCENTIVE FOR THE NORMALIZATION OF BUSINESS ACTIVITY**

This financial support, created with the publishing of the Decree-Law no. 27-B/2020, of 19<sup>th</sup> June, added a new Article 4 to the Decree-Law no. 10-G/2020, of 26<sup>th</sup> March.

Thus, companies that have benefited from the simplified lay-off program or the extraordinary training plan, as long as they have not accessed the phase-in support mechanism, are eligible for it:

- The **one-off support in the amount of 1 minimum wage per job** that has been laid off under the simplified scheme, as long as there is no collective dismissal, due to job extinction and maladjustment, and as long as the duty to maintain the employment level in the following 60 days is fulfilled;
- A support over 6 months of **2 national minimum wages per worker**; a **50% reduction in Social Security contributions** for the first 3 months; and the possibility that if at the end of the support there is net job creation compared to the same 3 months, the company is **exempted from paying Social Security contributions** for a period of 2 months, in proportion to the employment gain, as long as it maintains this employment gain for a period of 6 months.

To benefit from this support, companies must not proceed with collective dismissal, due to job extinction and maladjustment, and must maintain the level of employment during the implementation of the measure and within 60 days thereafter.

On 18<sup>th</sup> November 2020, Decree-Law No. 98/2020 was published, which made an exceptional and temporary change to the above-mentioned rules on the sequentiality of support for job maintenance, allowing the employer who had applied for the extraordinary

incentive for the normalization of activity until 31<sup>st</sup> October 2020 to give up this support and access the extraordinary support for the gradual resumption of activity, setting the conditions for this purpose.

This support was regulated by Ministerial Order no. 170-A/2020 of 13<sup>th</sup> July, which has been now been amended by Ministerial Order no. 294-B/2020 of 18<sup>th</sup> December, adapting the rules of this support to the possibility, introduced in the meantime, of withdrawing the request for an incentive.

## **P. SCHEDULING OF HOLIDAYS IN 2021**

On 17<sup>th</sup> March 2021, Decree-Law 22-A/2021, determined that the approval and posting of the holiday map (provided for in article 241, no. 9 of the Labor Code), during the year 2021, may be carried out until 15<sup>th</sup> May 2021, instead of 15<sup>th</sup> April, the deadline provided for in the labor legislation.

## **Q. NEW INCENTIVE THE STANDARDIZATION OF BUSINESS ACTIVITY**

Created through the publication of Decree-Law no. 23-A/2021, of 23<sup>rd</sup> March, through additions to Decree-Law no. 46-A/2020, of 30<sup>th</sup> July, this new incentive is aimed at employers who, in the first quarter of 2021, have benefited from extraordinary support to maintain employment contracts.

This incentive is granted according to the following criteria:

- a) When applied for by 31<sup>st</sup> May 2021, it is worth 2 times the minimum monthly guaranteed remuneration (RMMG) and is paid in a phased manner over 6 months;
- b) When requested after the date referred to in the previous sub-paragraph and until 31<sup>st</sup> August 2021, it has the value of one RMMG, paid in a lump sum, corresponding to the 3-month period.

The incentive is granted for each worker covered by the support, where the number of workers of the company is measured by reference to the month prior to the submission of the application, having as limit the number of workers covered by the support in the last month of its application.

This incentive also includes the right to a partial waiver of 50% of the payment of social security contributions to be borne by the employer, with reference to the workers covered, during the first 2 months of the incentive.

If accessing this incentive, the employer has the following obligations:

- a) To keep their tax and social security contributions up to date with social security and with the Tax and Customs Authority;
- b) Not to terminate, during the granting period of the support, as well as in the following 90 days, employment contracts due to collective dismissal, dismissal for termination of the job and dismissal due to unsuitability, nor to initiate the respective procedures
- c) To maintain, during the granting period of the support, as well as in the 90 following days, the employment level observed in the month prior to the application submission.

This incentive cannot be cumulative with the extraordinary support to the progressive recovery of activity in companies in a business crisis situation with a temporary reduction of the normal working period.

## VI. JUDICIAL MEASURES - DEADLINES AND PROCEDURES

In face of the significant worsening of the pandemic in Portugal, the Council of Ministers presented the Draft Law no. 70/XIV, proposing the ninth amendment to Law no. 1-A/2020 of 19<sup>th</sup> March, establishing exceptional and temporary measures in response to the epidemiological situation Covid-19.

### A. PROCEDURAL DEADLINES

Therefore, if the said Draft Law is approved by the National Assembly, a general regime of suspension of all deadlines, including the ones on expiry and prescription, will come into force, with reference to the proceedings underway on:

- Judicial Courts;
- Administrative and Fiscal Courts;
- Constitutional Court;
- Court of Auditors; and
- Other Jurisdictional Bodies, Arbitral Courts, Public Prosecution Service, Courts of Peace, Alternative Dispute Resolution Entities and Fiscal Execution Bodies.

However, it is foreseen that such suspension will not be applicable to pre-contractual litigation foreseen in the Code of Procedure in Administrative Courts nor to processes for prior inspection by the Court of Auditors.

According to the said Proposal, the foreseen suspension may not cover:

- The conducting of non-urgent proceedings in the higher courts, where conditions exist to ensure the practice of procedural acts through computer platforms or through appropriate means of remote communication, namely teleconferencing, videoconferencing, video calling or other equivalent; and
- The conducting of proceedings and the practice of both face-to-face and non-face acts which are not urgent where all the parties consider that they are able to ensure their practice through computer platforms which make it possible to carry them out by electronic means or through appropriate means of remote communication, in particular teleconferencing, videoconferencing or other equivalent.

A final decision may, however, be rendered in those cases and procedures where the court and other entities do not consider it necessary to take further steps.

It is also foreseen the suspension of:

- The time limit for submitting the debtor to insolvency;
- Acts to be carried out in the course of executive or insolvency proceedings in connection with the judicial delivery of the family home;
- Eviction proceedings, special eviction proceedings and proceedings for delivery of rented real estate, when the tenant, by virtue of the final judicial decision to be rendered, may be placed in a situation of fragility due to lack of own habitation or for another compelling social reason; and
- Acts to be carried out in the course of executive or insolvency proceedings, relating to sales and judicial deliveries of real estate which are likely to cause damage to the maintenance of the person defaulted or declared insolvent, who may request the suspension of his practice, provided that such suspension does not cause serious or irreparable damage to the maintenance of the person defaulted.

## **B. PROCEDURAL STEPS**

The Draft Law provides a new procedural, transitional and exceptional regime, aimed at regulating the conduct of proceedings in the courts.

## **C. WITNESSES ENQUIRIES AND PRODUCTION OF EVIDENCE**

According to the regime proposed by the Government, the enquiry of witnesses and the taking of evidence shall be carried out by appropriate means of remote communication, such as teleconferencing, video calling or other equivalent.

These investigations should be carried out from a court or public building, provided that the number of persons present does not exceed the number imposed on the terms of the guidelines of the health authorities and the guidelines laid down by the competent Supreme Councils.



#### **D. OTHER STEPS REQUIRING THE PHYSICAL PRESENCE OF THE PARTIES**

In other proceedings requiring the physical presence of the parties, their representatives or other procedural actors, the practice of any other procedural and procedural acts shall be carried out with the appropriate means of communication at a distance, such as teleconferencing, videoconferencing or other equivalent.

These steps should be taken from a court or public building if this does not involve the presence of more persons than envisaged by the guidelines of the health authorities and the guidelines laid down by the competent supreme councils.

#### **E. PROCEEDINGS CONCERNING THE ACCUSED**

As in the previous rules, the provision of statements by the accused should also be ensured by means of distance communication from a court or public building premises, if this does not involve the presence of more people than provided for by the guidelines of the health authorities and the guidelines laid down by the competent supreme councils.

#### **F. RULE ON PROCEDURAL ACTORS BELONGING TO RISK GROUPS**

According to the Government's proposal, in proceedings requiring the physical presence of the parties, if they, their representatives or other procedural actors are proven to be over 70 years of age, immunocompromised or chronically ill, which, according to the guidelines of the health authorities, should be considered to be at risk, they shall not be obliged to go to a court and, where the right of non-travelling is effective, their enquiry or follow-up shall be carried out by appropriate means of distance communication, such as teleconferencing, videoconferencing or other equivalent, from their legal or professional domicile.

#### **G. ADMINISTRATIVE DEADLINES**

The Government's Draft Law also aims for the suspension of the following administrative deadlines:

- Special administrative procedures, qualified in law as urgent, such as competition procedures for recruitment, provided that it is possible to ensure the practice of acts in the procedure by means of distance communication or, when this is not possible, respecting the general guidelines set by the health authorities;

- Administrative procedures for entry into the judiciary, tax, or public prosecutor Magistrature; and
- Public contracts procedures, namely those set out in the Public Contracts Code.

## VII. CORPORATE AND COMMERCIAL MEASURES

### A. COLEGIAL BODIES

**General meetings** of companies, associations or cooperatives that are required to take place, by legal or statutory requirement, may be held until the 30<sup>th</sup> June 2020.

By virtue of the publication of Decree-Law no. 22-A/2021, of 17<sup>th</sup> March, and through the reinstatement of certain provisions of Decree-Law no. 10-A/2020, it was determined, for 2021, not only the possibility of holding general meetings through telematic means, but also the possibility that these may be held until 30<sup>th</sup> June 2021.

On the collective bodies of public or private entities, the Law determines that the participation by telematic means, namely by video or teleconference of members of such bodies, does not prejudice the regular functioning of the body, namely regarding the quorums and resolutions. The form of participation of each of the said members must nevertheless be recorded in minutes.

Thus, there is a temporary derogation from the provisions allowing the statutory prohibition of holding general meetings or board meetings by telematic means - see Article 377, no. 6, (b) and Article 410, no. 8 of the Companies Code. In the case of companies that contain, in their Articles of Association, the prohibition of holding such meetings by telematic means, the members may henceforth resign under those terms, without this leading to the annulment of the resolutions resulting therefrom.

Regarding the companies subject to CMVM regulation and supervision, the CMVM has published guidelines and clarifications addressed to investors on general meetings.

Among the measures in question, the following stand out:

- The possibility of holding mixed general meetings, with a combination of telematic and face-to-face means - in this case, certain participants are granted physical presence and others simultaneous access through means of distance communication, with or without the possibility of interaction, decentralized or through recourse to common physical locations where video access to the meeting site is available;

- The need for the notice to include the specific manner in which the general meeting is to be held, which will be disclosed by the issuer in the Sistema de Difusão de Informação (information disclosure system), as well as the means to be used to identify the shareholders;
- The maintenance of general rules, such as the duty of the shareholder to express to the chairman of the general meeting its intention to participate in the general meeting or the duty of the financial intermediary to communicate to the chairman of the general meeting, at the request of the shareholder, the number of shares held by him/her.

## **B. COMISSÃO DE MERCADOS E VALORES MOBILIÁRIOS**

The impact of Covid-19 on the regular activity of institutions requires constant monitoring of the integrity and regular functioning of financial markets and an assessment by the various authorities of the need to adopt exception measures in this period.

In this context, the CMVM has been disclosing a set of decisions, recommendations, and guidelines applicable to the entities it supervises, with the purpose of adopting and strengthening measures to deal with the pandemic context we are experiencing such as:

- The recommendation for the adoption of principles of sustainability and transparency in market information and in dividend and crisis management policies, of 14<sup>th</sup> April, which states that companies issuing securities should ensure the quality and transparency of information made available to their investors and stakeholders, as well as safeguard a sound and resilient financial structure through careful consideration of decisions - such as accountability, dividend distribution, remuneration policies and crisis management;
- A Circular on the deadline for reporting to the CMVM the internal control report, of 13 April, which extends the deadline for the submission of the evaluation report on the effectiveness of the compliance monitoring system, the risk management service and the internal audit (internal control report), for the year 2019, until 30 September 2020;
- A Circular, on the prevention of money laundering and terrorist financing, of 2 April, which considers the current situation, potentially creating adverse situations in the context of the issue in question, and therefore, in the ensuing period, companies should remain vigilant and rigorous as regards compliance with the legal

requirements relating to the prevention of money laundering and terrorist financing. This circular also extends the deadline for the submission of the Report to the CMVM of the activity carried on by the companies in 2018 and 2019, for a period of 3 months. CMVM decisions and recommendations within the scope of Covid-19, namely regarding CMVM's own operation, business continuity, reporting obligations to CMVM and a relaxation of investment companies' reporting obligations.

- CMVM recommendations, on auditing activity within the scope of Covid-19, from 20<sup>th</sup> March 2020, which, on the one hand, provides recommendations for audit teams that had already started or were preparing to start audit processes for 2019; and, on the other hand, underlines that auditors and companies should identify the impacts and risks that the propagation of Covid-19 may cause in their activity and in the financial statements prepared or in progress;
- Recommendations, regarding the holding of General Meetings, from 20<sup>th</sup> March 2020, of the CMVM, the Instituto Português de *Corporate Governance* and Associação de Empresas Emitentes de Valores Cotados em Mercado, which contains several recommendations regarding the holding of General Meetings using telematic means, making information prior to the Meeting available on the company's website and on the CMVM's Sistema de Difusão;
- Guidelines and clarifications addressed to investors, of 27<sup>th</sup> April 2020, which are organized by the following themes: (i) the importance of open markets, (ii) care to be taken in the face of volatility in the markets, (iii) common behavioral biases in times of turbulence, (iv) CMVM recommendations for dividend distributions, (v) recommendations for the distribution of dividends, (vi) general meetings at a distance and (vii) tips to face the increased risk of fraud.

## VIII. SECTORAL MEASURES

### A. SUPPORT FOR COMPANIES IN THE TOURISM AND CATERING SECTOR, HOTELS AND FURNISHED ACCOMMODATION FOR TOURISTS - INTEREST-FREE LOANS

In the area of companies support, the Secretary of State for Tourism has determined the creation of a **financial support line** to meet the cash needs of micro-companies whose activities were affected by the Covid-19 pandemic. To this end, on 25<sup>th</sup> March 2020, **Normative Order No. 4/2020** was published.

The beneficiaries of this support line are micro-companies with IAPMEI electronic certification, that carry the following activities:

BENEFICIARIES (PER NICE CODE)			
551	HOTEL ESTABLISHMENTS	79	TRAVEL AGENCIES AND TELECOM. OPERATORS
55201	FURNISHED ACCOMMODATION FOR TOURISTS	82300	FAIR AND EVENTS ORGANIZATION
55202	COUNTRYSIDE TOURISM	93192	OTHER SPORT ACTIVITIES *
55203	OTHER SHORT-TERM ACCOMMODATION	93210	SMALL FUN ACTIVITIES *
55300	CAMPING GROUNDS AND CARAVANNING	93292	MARINA ACTIVITIES *
561	RESTAURANTS	93293	ORGANIZATION OF ANIMATION ACTIVITIES *
563	BEVERAGE ESTABLISHMENTS	93294	OTHER FUN AND RECREATIONAL ACTIVITIES *
771	CAR RENTAL		

\* IF DEVELOPED BY TOURISTIC ANIMATION COMPANIES

The support has the nature of a repayable support, **without any associated interest**, amounting to € 750 for each job on 29<sup>th</sup> February 2020, corresponding to 3 months, up to a maximum of € 20.000 per company.

The loan is interest-free, has a repayment period of three years and a grace period of one year, during which no capital payment is due.

The requirements for access to the Turismo de Portugal line are the following:

- Regularized situation with the Tax Administration, Social Security and Tourism of Portugal;

- Active licensing to exercise the respective activity, and registration with Registo Nacional do Turismo, when applicable;

Only micro companies with electronic certification on the IAPMEI portal and which carry out, within the national territory, the tourist activities referred above may be beneficiaries of these measures, and one of the partners must also provide a personal guarantee.

Companies must also comply with several other requirements, most of which are proven by a declaration made by the company at the time of the application, as well as some reporting obligations to the Turismo de Portugal.

This line was reinforced by the Normative Order no. 10/2020, of 11<sup>th</sup> August.

This measure was amended by Normative Order no. 1/2021 of 11<sup>th</sup> January, as part of the second wave of Covid-19, and through which the respective budget was increased to € 100 million, the conversion mechanism of 20% of non-refundable funding was extended to all applications, as well as the introduction of the possibility for companies that are not in effective activity to access the helpline if they are unable to do so due to administrative determinations of non-opening. On the other hand, the scope of the Activity Code 93110, concerning the management of sports facilities, gets also covered.

The support corresponds to the amount of € 750 per month for each existing job in the company on 29<sup>th</sup> February 2020, for micro companies, or on 30<sup>th</sup> November 2020, for small companies, multiplied by the period of three months, up to a maximum amount of € 20.000 or € 30.000, depending on whether they are micro or small companies, respectively.

## **B. CREDIT LINES**

As part of the support measures for companies and sole proprietors, several credit lines have been launched, through the banking and financial system, with State guarantees, already exceeding € 6 billion.

<i>COMPANIES IN GENERAL</i>	<i>TOURISM/HOUSING SECTOR</i>	<i>RESTAURANTS SECTOR</i>	<i>TOURISM AND EVENTS SECTOR</i>
<i>€ 4.500 MILLION (€ 1.700 MILLION TO SMEs)</i>	<i>€ 900 MILLION (€ 300 MILLION TO SMEs)</i>	<i>€ 600 MILLION (€ 270 MILLION TO SMEs)</i>	<i>€ 200 MILLION (€ 75 MILLION TO SMEs)</i>
<i>MAXIMUM OF € 2 MILLION PER COMPANY</i>	<i>MAXIMUM OF € 2 MILLION PER COMPANY</i>	<i>MAXIMUM OF € 1.5 MILLION PER COMPANY</i>	<i>MAXIMUM OF € 1.5 MILLION PER COMPANY</i>

Common requirements to access to the credit lines are:

- The IAPMEI electronic certification;
- A positive net worth in the last financial year; in the event of a negative net worth, they may access the lines if they have a positive interim balance sheet by the date of the operation;
- The non-existence of unregulated incidents with the Bank on the date of issue of the contract;
- The situation regularized with the Tax Authorities and Social Security;
- The presentation of a statement explaining the negative impacts of the Covid-19 outbreak on their economic activity, which substantiates the specific need to obtain financing under the credit line;
- Not to be considered companies in difficulty on 31.12.2019, resulting in the difficulties of the circumstances regarding the Covid-19 pandemic;
- The submission of a declaration in which is undertaken the maintenance of permanent jobs until 31.12.2020, in view of the proven number of such jobs on 01.02.2020 and, as such, have not promoted or will not promote, during that period, collective dismissal processes or dismissal for the extinction of the job, or demonstrate that they are subject to the lay-off regime, upon submission of approval by Social Security.

The loans resulting from the credit lines identified above must not exceed:

- Twice the annual wage bill;
- 25 % of the total turnover of the client in 2019.



### C. INCENTIVE SYSTEM FOR ENTREPRENEURSHIP AND EMPLOYMENT (SI2E)

On 22<sup>nd</sup> May 2020, Ordinance No. 122/2020 was published, which makes the third amendment to the regulation that created the Entrepreneurship and Employment Incentive System (SI2E), approved by Ordinance No. 105/2017 of 10<sup>th</sup> March.

The amendment to this incentive scheme, operate a set of exceptional and temporary measures aimed at easing conditions and procedures for implementing support granted through the Entrepreneurship and Employment Incentive Scheme (SI2E), adding an Annex to SI2E regulation, approved by Order No. 105/2017 of 10<sup>th</sup> March.

That annex establishes the exceptional and temporary rules applicable to operations supported by SI2E, in immediate response to the impact of the public health crisis in the context of the Covid-19 outbreak.

The measures contained in this new Annex to the regulation are, among others, the following:

- The possibility of extending the investment period provided by Article 9, no. 2 (b) of the SI2E Regulation, by decision of the Managing Authority (MA), after submission of a request by the beneficiary for the period necessary to respond to situations of force majeure arising from the Covid-19 outbreak;
- Suspension of support provided by Article 10, no. 2 of the same regulation for the period of the extraordinary support to be granted to the beneficiary under the simplified *lay-off*;
- Possibility of reviewing the conditions associated with the verification of job retention and net job creation provided by Article 19 (f) of the SI2E Regulation.

On 18<sup>th</sup> November 2020, Ministerial Order no. 266/2020 was published, once again amending the regulations of the SI2E, approved by Ministerial Order no. 105/2017, of 10<sup>th</sup> March.

With this amendment, the modalities of operations that may be financed covers now also the stimulation of locally based national production for the expansion and modernization of production by micro and small companies. Regarding the eligibility criteria (Article 9 of the regulation), for these operations, net job creation is not required, but only the maintenance of jobs.

On the other hand, a new type of eligible expenditure is added, consisting of expenditure on technological/digital services, quality, and certification systems.

#### **D. FINANCIAL INCENTIVES – PORTUGAL 2020**

Council of Ministers Resolution no. 10-A/2020 sets out various measures aimed at supporting the cash flow and working capital of companies, maintaining jobs as a result of the sharp fall in demand with immediate repercussions on the liquidity available to companies, with the aim of anticipating the payment of subsidies and other public support.

The following measures have been determined to support the liquidity of companies:

- The liquidation of the incentives should occur as soon as possible after the payment requests are submitted by the companies and may be made, at the maximum, as an advance;
- In the case of companies with losses of more than 20%, the deferment for a period of 12 months of the instalments due up to 30.09.2020, relating to reimbursable subsidies granted under the QREN and/or Portugal 2020, without interest charges or any other penalty for the beneficiary companies;
- Be eligible for reimbursement of expenses demonstrably incurred by beneficiaries in initiatives or actions cancelled or postponed for reasons relating to Covid-19, provided for in projects approved by Portugal 2020 or other operational programs, as well as by Instituto do Vinho e da Vinha, I.P;
- Negative impacts arising from Covid-19 that lead to insufficient achievement of actions or targets may be considered as reasons of force majeure not attributable to the beneficiaries in the evaluation of the contractual objectives under the Portugal 2020 incentive schemes.

#### **E. SYSTEM OF INCENTIVES FOR PRODUCTIVE INNOVATION IN THE CONTEXT OF COVID-19**

On 18<sup>th</sup> April 2020, Ordinance No. 95/2020 establishing Sistema de Incentivos à Inovação Produtiva no contexto da Covid-19 (an incentive scheme for productive innovation in the context of Covid-19) ("SIIP Covid-19") was published, also approving the respective Regulation.

Under the terms of the Regulation, the SIIP Covid-19 aims to support companies wishing to establish, strengthen or reverse their production capacities for goods and services to combat the Covid-19 pandemic, including the construction and modernization of test and testing facilities for relevant Covid-19 products, and is financed by the European Structural and Investment Funds ("FEEI"), thus applying the rules laid down in Decree-Law no. 159/2014.

This is a non-refundable subsidy, co-financed by the State for companies that adapt production lines or create products and services to combat Covid-19.

The operations eligible are the ones of all economic activities, aimed at the production of goods and services relevant to the Covid-19, with two types of investment (both always considered innovative):

- Productive innovation Covid-19 Non-SMEs: investment priority 1.2;
- Productive innovation Covid-19 SMEs: investment priority 3.3.

The legal requirements for the companies to access the Covid-19 SIIP are the following:

- To be legally constituted and have organized accounts;
- Not to be a company in difficulty at the date of 31.12.2019;
- Declare that it is not a company subject to an outstanding recovery order following a Commission decision declaring state aid illegal;
- In the case of SMEs, to have (or obtain) an electronic certification from IAPMEI.

### *Eligible Expenses*

- *Costs on acquiring machines and equipment;*
- *Costs of adapting equipment and reorganizing production lines;*
- *Costs of purchasing computer equipment, including the software necessary for its operation;*
- *Technology transfer through the acquisition of national and international patent rights;*
- *Non-patent licences, know-how or technical knowledge;*
- *Cost of building, refurbishment and other constructions, up to 50% of total eligible project expenditure;*
- *Expenditure on the involvement of certified accountants or statutory auditors in validating the expenditure of requests for payment, up to a limit of €5.000;*
- *Standard software or specifically developed for a particular purpose ;*
- *Studies, diagnostics, technical-scientific audits, marketing plans and architectural and engineering projects associated with the project; and*
- *Laboratory tests and trials and necessary raw materials, certifications and conformity assessments, essential for the development of the investment project.*

The eligibility criteria for projects are as follows:

- To aim at an investment in innovation in goods and services relevant to Covid-19;
- To fit in with the objectives and priorities defined in the application notices;
- Starting date of work on 01.02.2020 (for projects started before this date, aid is considered to have an incentive effect when necessary to accelerate or extend the project);
- Have a maximum implementation duration of 6 months;
- Comply with the requirements of the application notice;
- Have a merit score on criterion A-Quality of the project higher than 1 (considering the quality of the project, the impact of the project on the competitiveness of the enterprise, the contribution of the project to the economy and regional convergence).

The grant is subject to co-financing rates of 80%, and the rate may be increased by 15% if the project is completed within 2 months.

If the project is not completed within the previously foreseen 6 months, for reasons attributable to the beneficiary, 25 % of the non-repayable grant aid will be reimbursed for each month of delay in excess of the maximum implementation period.

## F. SYSTEM OF INCENTIVES FOR RESEARCH AND DEVELOPMENT ACTIVITIES AND INVESTMENT IN INFRASTRUCTURE AND OPTIMIZATION (*UPSCALING*)

On 18<sup>th</sup> April 2020, Ordinance no. 96/2020 entered into force, with the aim of creating a new system of incentives with the purpose of carrying out research and development activities and investing in the infrastructure needed to develop products to combat the pandemic.

Companies likely to be supported should be based in mainland Portugal and carry out research and development (R&D) activities - "I&D Empresas" projects; and/or, develop testing and optimization (*upscaling*) infrastructures - "Infraestruturas de Ensaio e Otimização" projects - both concerning the development of products aimed at contributing to the fight against the Covid-19 pandemic.

Business entities and non-business entities of the Research and Development (R&D) system will be eligible, as long as they are legally constituted, have organized accounts and are not in a difficult situation.

Only the projects starting from 01.02.2020 will be eligible. Those which started earlier will be eligible for incentives under this program, but only to the extent necessary to meet the costs of accelerating it.

All costs necessary to carry out research and development activities to combat Covid-19 will, as well as the investments associated with the construction or upgrading of test and optimization infrastructure (*upscaling*) will be eligible as expenditures.

The eligible expenses arising from the "I&D Empresas" projects will be allocated in the form of a non-refundable incentive and will have the following coverage rates in relation to the costs incurred:

- 100% if the expenses arising from research activities are considered fundamental;
- 80% if the expenses arising from research and development are considered experimental, which can be increased by 15% if more than one Member State supports the research project or if the research is carried out in cross-border collaboration with research organizations or other enterprises.

### *Eligible expenses*

- *Scientific and technological equipment essential to the project;*
- *Charges with highly qualified human resources;*
- *Expenses associated with the national and foreign registration of patents, copyrights, utility models and designs, national models or trademarks;*
- *Acquisition of medical devices, medical and hospital equipment;*
- *Acquisition of services from third parties, for technical, scientific and expert advice;*
- *Raw materials, laboratory consumables and components for testing and prototyping;*
- *Expenditure on the demonstration, promotion, and dissemination of project results; and*
- *Other indirect costs.*

Eligible expenses under the incentive scheme arising from "Infraestruturas de Ensaio e Otimização" projects will also be allocated in the form of a non-reimbursable incentive with the following conditions:

- The incentive will cover 75% of the expenses incurred;
- However, the 75% rate may be increased by 15% if the approved project is completed in 2 months;
- If the project is not completed within 6 months from the date of its approval, the beneficiary will have to reimburse 25% of the total incentive granted for each month of delay in completing the project.

### *Eligible costs for "Infraestruturas de Ensaio e Otimização" projects*

- *Purchase of medical devices, medical and hospital equipment;*
- *The costs of building or modernizing upscaling infrastructure necessary to develop, test and optimize, up to the first industrial use preceding large-scale production of products and treatments relevant to the fight against Covid-19; and*
- *Charges for data collection/processing tools.*

Once the project has been approved, the beneficiaries must comply with the following obligations:

- To publicize the support;
- Have a project dossier available;
- Implement the projects under the approved terms and conditions;

- Ensure the provision of the necessary elements for the monitoring and evaluation activities of the projects and participate in project related enquiry processes;
- Provide access to project sites and to those where the elements and documents necessary for monitoring and control of the approved project are located;
- Keep the documents relating to the implementation of the operation;
- Communicate relevant changes or occurrences that call into question the assumptions regarding the approval of the project;
- Keep the tax and contribution situation regularized;
- Have an organized or simplified accounting system, as required by law;
- To adopt behaviors that respect the principles of transparency, competition, and good management of public money, not affecting for other purposes the goods and services acquired in the scope of the supported projects, without prior authorization of the competent entity for the decision; and
- To restore any amounts unduly received and to comply with the administrative penalties imposed.

## **G. SPECIFIC MEASURES FOR THE TOURISM SECTOR**

On 23<sup>rd</sup> April 2020, Decree-Law No. 17/2020 was published, establishing exceptional and temporary measures for the tourism sector in the context of the Covid-19 pandemic.

The measure applies to travels organized by travel and tourism agencies, to cancellation of bookings in tourist resorts and local accommodation establishments, and to the relations between travel and tourism agencies, tour operators and tourist resorts and local accommodation establishments.

On travels which would take place between 13.03.2020 and 30.09.2020, which are not cancelled due to Covid-19, travel and tourism agencies, exceptionally entitle travelers to opt between:

- The issuance of a voucher valid until 31.12.2021;
- Rescheduling the trip until 31.12.2021.

If the traveler does not reschedule the trip until 31.12.2021, he or she has the right to get a refund within 14 days. This measure applies to finalist trips and to cancellations made in tourist resorts or local accommodation establishments, in which case there must be an agreement between the owner and the traveler in the event of a rescheduling of the travel.

The default attributable to travel and tourism agencies allows travelers to activate the travel and tourism guarantee fund.

However, if the traveler is unemployed, he or she may request reimbursement of the entire amount spent, up to 30.09.2020.

## **H. MEASURES FOR PROFESSIONALS IN THE CULTURAL SECTOR**

On 15<sup>th</sup> February 2021, Ministerial Order no. 37-A/2021 was published, which approved the Regulation on Culture Support Measures in the context of response to the COVID-19 disease pandemic.

The diploma establishes a set of 8 Programs aimed at supporting companies and professionals in the areas of culture, namely:

- Guarantee Culture Program;
- Extraordinary support to artists, authors, technicians and other culture professionals;
- Support under the scope of the Directorate-General for the Arts (DGARTES);
- Support within the scope of the Directorate-General of Cultural Heritage (DGPC);
- Support within the scope of the Directorate General of Books, Archives and Libraries (DGLAB);
- Support within the scope of the Regional Directorates for Culture;
- Support within the scope of the Instituto do Cinema e do Audiovisual, I. P. (ICA, I. P.);
- State Program for the Acquisition of Portuguese Contemporary Art.

## **I. APOIAR PROGRAM**

The APOIAR Program was created by Council of Ministers Resolution no. 101/2020, of 20<sup>th</sup> November. A first set of measures was approved as a treasury support instrument for micro and small companies operating in sectors particularly affected by the confinement measures, with this support being granted as a sinking fund.

The Program was subsequently regulated by Ministerial Order no. 271-A/2020, of 24<sup>th</sup> November.



The Program is divided into economic areas:

- APOIAR.PT
- APOIAR.RESTAURAÇÃO
- APOIAR + SIMPLES
- APOIAR RENDAS.

On 24<sup>th</sup> March 2021, Ministerial Order no. 69-A/2021 was published, which determined the reopening of applications for the APOIAR.PT measure which had been suspended, the reinforcement of support for companies with turnover losses of over 50%, the widening of the APOIAR + SIMPLE and APOIAR RENTAS measures to sole proprietorships without organized accounts, as well as the widening of the subjective scope of application of this support.

The applications runs on the IAPMEI website.

## IX. MEASURES IN THE REAL ESTATE AND HOUSING SECTOR

The Government and the National Assembly have been approving exceptional and temporary measures to mitigate the consequences of the pandemic outbreak in the real estate sector, giving priority to matters related to renting and crediting housing.

### A. EXCEPTIONAL MEASURES APPLICABLE TO RENTS

Law no. 4-C/2020 of 6<sup>th</sup> April, with retroactive application, establishes an exceptional regime for situations of arrears in the payment of rent due under residential and non-residential urban rental contracts.

#### I. Residential rental contracts

In the case of residential rental contracts, the measures apply to those who demonstrate:

- A decrease of more than 20% in the income of the tenant's household compared to the income of the previous month or the same period of the previous year; and
- The effort rate of the tenant's household is or becomes more than 35%.

It is granted the possibility for tenants and students to apply to the Instituto da Habitação e da Reabilitação Urbana, I.P. ("IHRU"), for an interest-free loan to support the difference in rent resulting from the fall in income and/or the increase in the effort rate.

The IHRU has already published the Regulations for the Exceptional Support Programme for Residential Rentals, which can be consulted here.

Tenants who are unable to pay the rent have the duty to inform the landlord, in writing, up to five days before the due date of the first rent in which they wish to benefit from this scheme.

Finally, it should be noted that the termination of the lease at the initiative of the tenant renders the immediate payment of the rent due and unpaid, as from the date of termination.

The financial support granted by Law no. 4-C/2020, of 6<sup>th</sup> April, to housing tenants who show a loss of household income is now applicable to rents falling due as from 1<sup>st</sup> April 2020 until 1<sup>st</sup> September 2020.

#### II. Non-residential rental contracts

Regarding non-residential rental contracts (and other forms of contract for the exploitation of property for commercial purposes), the law applies to non-residential tenants:

- Which have as their object the development of retail trade activities or the provision of services closed down or have their activities suspended, including the cases where they maintain the provision of e-commerce activities, or the provision of services at a distance or through an electronic platform; or
- The catering sector and similar, including the cases when they remain active for the exclusive purpose of confectionery intended for consumption outside the establishment or for home delivery.

Such tenants may defer payment of rent due in the months in which the state of emergency is in force and in the first month thereafter, for the 12 months following the end of that period, in monthly instalments of not less than one twelfth of the total amount, paid together with the rent for the month in question.

In addition, the law provides that failure to pay rent due in the months in which the state of emergency is in force and in the first month following, those mentioned in the preceding paragraph, may not be invoked as grounds for termination, denunciation, or other form of extinction of contracts, or as grounds for an obligation to vacate property.

Furthermore, under the terms of the said Law, the landlord shall not be entitled (i) to demand the payment of any other penalties based on the late payment of rent due under the terms described in the preceding paragraph, (ii) to demand the payment of the 20% compensation provided for in Article 1041 of the Civil Code for late payment of rent due in the months in which the state of emergency is in force and in the first subsequent month, and (iii) to refuse to receive the following rent.

Finally, it should be noted that the termination of the contract with the initiative of the tenant renders the immediate payment of the rentals due and unpaid demandable as from the date of termination.

Law no. 17/2020, of 29<sup>th</sup> May, expanded the subjective scope of the exceptional regime to situations of default in payment of the rent due under the terms of a non-residential rental contract within the scope of the Covid-19 pandemic.

The exceptional regime now also applies to establishments open to the public for retail and service activities and to restaurants and similar establishments that are closed or have their activities suspended, after the cessation of the state of emergency, by virtue of a legal provision or administrative measure approved in the context of the pandemic that so determines.

Until 1<sup>st</sup> September 2020, tenants in these situations may also defer payment of the rentals due for the months in which, under a legal provision or administrative measure, the closure or suspension of the activity of their establishment is determined, or for the first month following that period.

On the other hand, landlords are not due the compensation for late payment provided for in Article 1041 no. 1 of the Civil Code for late payment of these rents falling due by 1<sup>st</sup> September 2020.

The period for settling the debt must begin on 1<sup>st</sup> September 2020 or after the end of the month following that in which the impediment ceases (if earlier) and may not exceed June 2021.

The rent due and deferred must be paid in monthly instalments not less than the amount resulting from the apportionment of the total amount due by the number of months in which it is to be settled and must be paid together with the rent for the month in question.

Failure to pay rents due during the period of closure or suspension of activities ordered after the cessation of the state of emergency may not be invoked as grounds for terminating the non-housing rental contract.

## **B. SUPPORT FOR LANDLORDS**

The law also provides financial support for landlords:

- Who have a drop of more than 20% in the income of the landlord's household compared to the income of the previous month or the same period of the previous year, which is caused by the non-payment of rents by tenants under the terms of this law;
- Whose remaining disposable income of the landlord's household falls below Social Support Indexant (€ 438.81); and
- Whose tenants do not have recourse to a loan from IHRU, I. P.

This financial support translates into the granting of an interest-free loan to compensate for the monthly rent, due and unpaid.

### **C. HOUSING RENTAL CONTRACTS TERMINATION**

During the period of the measures to prevent, contain and mitigate the Covid-19 pandemic, and up to 60 days after the cessation of such measures, it is suspended:

- The effects of denunciations of residential and non-residential house rental contracts made by the landlord;
- The termination of residential and non-residential house rental contracts unless the tenant objects to the termination;
- The effect of the revocation of residential and non-residential rental contracts;
- The taking effect of the opposition to the renewal of residential and non-residential house rental by the landlord;
- The period indicated in Article 1053 of the Civil Code, if the end of that period occurs during the period in which those measures are in force; and
- The eviction proceedings, the special eviction proceedings, and the proceedings for delivery of rented real estate, when the tenant, by virtue of the final judicial decision to be rendered, may be placed in a situation of fragility due to lack of own habitation or for another compelling corporate reason.

### **D. SUSPENSION OF EXECUTION OF A MORTGAGE ON REAL-ESTATE PROPERTY**

Law no. 1-A/2020 also establishes the suspension of the foreclosure of mortgages on real estate that constitutes a permanent dwelling of the foreclosure during the duration of the measures of prevention, containment, and mitigation of the Covid-19 pandemic, and up to 60 days after the cessation of such measures.

### **E. DEMONSTRATION OF THE DECLINE IN INCOME**

Ministerial Order no. 91/2020, of 14 April, considers relevant for the purpose of demonstrating the fall in income:

- In the case of income from employment, the respective gross monthly value - this income is evidenced by the corresponding pay slips or by declaration of the employer;

- In the case of income included in Category B of Personal Tax Income, the amount before VAT - this income is proven by the corresponding receipts, or, in cases where it is not compulsory to issue it, by invoices issued in accordance with the law;
- In the case of pension income, the respective gross monthly value;
- In the case of property income, the value of the rents received;
- The monthly value of social benefits received on a regular basis;
- The monthly value of housing benefits received on a regular basis; and
- The value of other income received on a regular or periodic basis.

## **F. 2021 REGIME**

In view of the second and third vacancies of Covid-19, on 30<sup>th</sup> December Law no. 75-A/2020 was published, amending Law no. 1-A/2020 of 19<sup>th</sup> March and Law no. 4-C/2020 of 6<sup>th</sup> April.

To that extent, the regime that was in force during the first states of emergency, under which the effects of denunciations of housing rental agreements are suspended, was extended until 30<sup>th</sup> June 2021.

While in the first states of emergency, to be able to access this regime, it was necessary to demonstrate an effort rate of 35%, with the new regime of 2021 this effort rate is reduced to 30%, making the support accessible to a greater number of tenants.

In the case of a non-residential rental contracts for establishments that, by legal or administrative determination for which the Government is responsible, were closed in March 2020 and remain closed on 1<sup>st</sup> January 2021, the duration of the respective contract is extended for a period equal to the duration of the closure measure.

In addition, a new regime is added, applicable to tenants whose establishments have been closed, by legal or administrative determination for which the Government is responsible, since at least March 2020 and which remain closed on 1<sup>st</sup> January 2021.

Under this new regime, and in respect of the rentals of 2020 that have been deferred, the possibility of deferment is extended for the rentals of 2021, during the period of closure, with the regularization period beginning on 1<sup>st</sup> January 2022 and ending on 31<sup>st</sup> December 2023. Payment is made in 24 monthly instalments.

## **X. MEASURES ON PORTUGUESE BAR ASSOCIATION AND CPAS (PENSION FUND)**

### **A. PORTUGUESE BAR ASSOCIATION**

The General Council of Portuguese Bar Association has allowed, upon simple request, the deferment of the payment of the quotas for the months from April to September 2020, to the year 2021, and may be made that year in twelve monthly instalments without interest.

### **B. CONTRIBUTION TO CPAS (PENSION FUND)**

On 15<sup>th</sup> April 2020, an extraordinary meeting of the General Council of CPAS was held and the Regulation on the response to the consequences of the epidemic of the new Coronavirus - Covid-19 was approved.

The Regulation establishes exceptional and temporary measures regarding contributions applicable to Beneficiaries who have been shown to have suffered a loss of income which prevents them from meeting their contribution obligations due to illness or abnormal reduction in activity.

In first place, to benefit from the measures, lawyers must comply with the following conditions:

- Having their contribution status with the CPAS settled or, if they have debts, being in a process of a payment plan;
- Being in a proven situation of Covid-19 disease;
- Being in prophylactic isolation decreed by the bodies exercising the power of health authority;
- Being in prophylactic isolation from children or other dependents motivated by situations of serious risk to public health decreed by the entities exercising the power of health authority;
- Being in situations of total cessation and total and complete impediment to the exercise of professional activity or abnormal reduction of activity related to the epidemiological situation of Covid-19, meaning an abrupt and sharp drop of at least 40% in income from professional activity in the month prior to the request period.

The Regulation permits the following measures:

- The deferment without any penalty of the deadline for payment of contributions for the months of April, May and June 2020, until October, November and December 2020 respectively; or
- The reduction, by the Beneficiaries of a contribution bracket, without the minimum limits set out in Article 80(2) of the CPAS Regulations, taking effect in May and June 2020.

These Regulations came into force on 17<sup>th</sup> April 2020.



## XI. MEASURES ON CREDITS AND THE FINANCIAL SYSTEM

### A. CREDITS PROTECTION MEASURES

The beneficiaries of the measures provided for in Decree-Law No. 10-J/2020 must comply with several requirements, depending on whether the moratorium is requested by individuals or companies.

#### Companies must:

- Have their headquarters and exercise their economic activity in Portugal;
- Be classified as micro, small or medium enterprises according to the European Commission Recommendation 2003/361/EC of 6<sup>th</sup> May 2003;
- Not be, on 18<sup>th</sup> March 2020, in arrears or in default of cash benefits for more than 90 days with the institutions, or, if they are, they do not comply with the materiality criterion set out in Banco de Portugal Notice 2/2019, and are not in a situation of insolvency, suspension or transfer of payments, or on that date already in execution by any of the institutions;
- Have the situation regularized with the Tax Authorities and the Social Security, noting for this purpose, until 30<sup>th</sup> April 2020, the debts constituted in March 2020.

#### Natural persons, in relation to credit for permanent owner-occupied housing must:

- On 18<sup>th</sup> March 2020, not be in arrears or in default on cash benefits for more than 90 days with the institutions;
- Have settled their claims with the Tax Authorities and the Social Security authorities in the same way as above;
- Provide assistance to children or grandchildren, as set out in Decree-Law No 10-A/2020;
- Have been placed in a reduction of the normal working period or in suspension of the employment contract, due to a business crisis, or in a situation of unemployment registered with the Institute for Employment and Professional Training;
- Are eligible for extraordinary support to reduce the economic activity of self-employed workers; or
- Are workers of entities whose establishment or activity has been subject to a determined closure during the period of the state of emergency.

In the case of **sole proprietors**, as well as **private institutions of social solidarity, non-profit associations, other entities of the social economy and other companies**, they must not be in default and have their situation regularized with Tax Authorities and Social Security.

## **B. MORATORIUM ON CREDITS**

The support measures envisaged are:

- The **prohibition of the cancellation**, in whole or in part, **of credit lines** contracted and loans granted during the period in which this measure is in force;
- The **extension**, for a period equal to the duration of the measure, **of all credits** with capital payment at the end of the contract, in force on the date of entry into force of the Decree-Law, including interest and guarantees;
- The **suspension of payment of capital, rents, and interest** due until the end of the period in which the exceptional measures are in force, the contractual plan being automatically extended for the same period as the suspension.

The extension of the period for payment of principal, rents, interest, commissions, and other charges does not give rise to breach of contract, activation of early maturity clauses, suspension of the maturity of interest due during the period of the extension, or the ineffectiveness or termination of the guarantees granted by the entities benefiting from the measures or by third parties.

A public moratorium on credit and financing agreements entered by companies is currently in force until 30<sup>th</sup> September 2021, as decreed by Decree-Law 10-J/2020 and its successive amendments. The deadline for joining these moratoria was 30<sup>th</sup> September 2020.

However, the State Budget for 2021 provides for an extension of the period for adherence to the moratorium on credit until 31<sup>st</sup> March 2021.

## **C. 2021 REGIME**

On 2<sup>nd</sup> December 2020, in recognition of the impacts of the second wave of the pandemic, the European Banking Authority reactivated the banking moratoria, allowing new accessions until 31<sup>st</sup> March 2021 and for a moratorium period of up to nine months from the date of that accession.

To this end, Decree-Law 107/2020 of 31<sup>st</sup> December is published, amending Decree-Law 10-J/2020 of 26<sup>th</sup> March, extending its effects and validity until 30<sup>th</sup> September 2021.

#### **D. EXTENSION OF GUARANTEES**

The extension of guarantees, in particular of insurance, sureties and/or guarantees referred to in the preceding paragraphs does not require any formality and are fully effective and enforceable against third parties, and their registration, where necessary, should be promoted by the institutions, without the need to submit any other document and with dispensation from successive treatment.

#### **E. BANCO DE PORTUGAL**

Banco de Portugal has closely monitored the situation of Covid-19 and its impact on financial and credit institutions.

Thus, on 16<sup>th</sup> March 2020, Banco de Portugal published Circular Letter No. CC/2020/00000017, which contains measures to relax regulatory and supervisory requirements to alleviate the contingency situation arising from the Covid-19 pandemic.

The main measures adopted by this Circular Letter are the following:

- **Capital and liquidity reserves** earmarked for particularly adverse situations may be used, allowing Banco de Portugal and the ECB to operate, on a temporary basis, with a level below that of the own funds recommendation, and with liquidity levels below those legally permitted, stressing that this flexibility may only serve to support the economy and may not result in increases in dividend distributions or variable remuneration of Directors;
- The 2020 **stress tests** have been suspended for the least significant institutions;
- The **suspension or postponement of all inspection actions**, in the areas of behavioral, prudential and money laundering prevention supervision, except in more critical situations or where remote work is possible;
- The **postponement of several reporting deadlines** to Banco de Portugal, namely the Financing and Capital Plans, the Internal Control Reports, the AML Prevention Report, among others;
- Regarding the deadline for replying to complaints to Banco de Portugal, the **extension of the deadline for institutions to reply to their customers**, from the current 20 days

to 30 days; the extension of the deadline for replying to Banco de Portugal requests for information to credit institutions, from the current 3 working days to 10 working days;

- The **opening of bank accounts by videoconference** and the **acceptance of expired documents** under the terms of Decree-Law 10-A/2020;
- The need to **maintain contingency and business continuity plans**.

## XII. MISDEMEANOR REGIME

On 26<sup>th</sup> June 2020, Decree-Law No. 28-B/2020 was published, subsequently amended by Decree-Law No. 99/2020 of 22 November, which establishes the misdemeanor regime, in the context of the pandemic situation.

This is a general law not only applicable to the Covid-19 pandemic situation, but also applicable to any declaration of an alert, contingency or public calamity situation adopted under the Basic Law of Civil Protection.

The Decree begins by determining several obligations that may be applicable during situations decreed as a national emergency, namely rules of occupation, stay and physical distancing in public places, as well as the possibility of suspending the holding of events, the imposition of limitations on the supply of alcoholic beverages, the limitation of operating hours or, also, compliance with rules applicable to air traffic and airports.

The new system determines that failure to comply with the above obligations constitutes an administrative offence punishable with fines ranging from € 100 to € 500 in the case of natural persons and € 1.000 to € 5.000 in the case of legal persons, also determining the reduction of the fine in 50% of its amount in cases of negligence.

Should the offending agent decide to pay the fine voluntarily, the fine shall be applicable at its legal minimum.

It is also laid down that police measures are to be applied, in particular the temporary closure of shops and the dispersal of the concentration of persons.

This law was amended by Decree-Law No 6-A/2021 of 14<sup>th</sup> January. The fines imposed for violation of the rules of the state of emergency were all increased to double.

On the other hand, it is established that non-compliance with the obligation to adopt the telework system during the state of emergency, regardless of the employment relationship, the modality, or the nature of the legal relationship, whenever the functions in question allow it, becomes a very serious offence, thus increasing the value of the corresponding fines.

This Decree-Law was again amended on 22<sup>nd</sup> January 2021, with the publication of Decree-Law no. 8-A/2021, which adds the possibility of administrative offences being applied in the event of failure to comply with the duties imposed by the Decree on the State of Emergency, also determining the application of the administrative offence regime in force in the Road Traffic Code, allowing the immediate collection of the fine applicable at the time of verification of the offence.

### XIII. OTHER MEASURES

#### A. PROHIBITION OF DISLOCATIONS TO OUTSIDE OF PORTUGAL

On 29.01.2021, Decree no. 3-D/2021 was published, which regulates the ninth State of Emergency since the beginning of 2020.

Under the terms of Article 4 of the said Decree, Portuguese citizens are prohibited to travel to outside of the continental territory by any means, namely road, rail, air, river or sea.

There are several exceptions provided by the Decree, namely travel within the scope of professional activity, departure from Portugal by citizens residing in other countries, exceptional travel for family reunion, among others.

On the other hand, border control with Spain has been reinstated, with the suspension of road, rail and river traffic, except for transportation of goods.

#### B. PENDING PERMITS (GOLDEN VISA)

One of the most important measures was the disclosure of Order no. 3863-B/2020 determining measures concerning applications for residence permits pending on 18<sup>th</sup> March 2020, namely those concerning Golden Visa.

This measure covers all types of residence permits, with residence in Portugal being considered regular if the application has been received by 18<sup>th</sup> March.

Proof of the pending status of the application is made through the following documents, which are also valid for access to the National Health Service, access to social benefits and signing contracts:

- Expression of interest or application document issued by the registration platforms in use at SEF;
- Document proving the scheduling at SEF or a receipt proving the application made, in the case of requests for renewal.

All **scheduled appointments** and **services** are suspended, and all appointments which were scheduled until 27<sup>th</sup> March 2020, from 1<sup>st</sup> July 2020 onwards, in chronological order will be scheduled.

### **C. EXPIRED DOCUMENTS AND TACIT ACCEPTANCE**

The citizen's card, certificates and certificates issued by civil registry offices, driving licenses and residence permits, which expire on or after 28<sup>th</sup> February 2020, will be accepted until 30<sup>th</sup> June 2020, **currently extended until the 31<sup>st</sup> December 2021**.

Documents which may be renewed whose validity expires or has expired after 28<sup>th</sup> February 2020 are accepted for all legal purposes - this will be the case, for example, of permanent certificates of companies, certificates of company name and certificates of real estate property.

Regarding authorizations and licenses required by private individuals, the periods of time during which the administration tacitly grants them are suspended. The time limits for companies' authorizations and licenses for environmental impact assessments are also suspended if they are tacitly granted.

All these documents will remain valid after 30<sup>th</sup> June 2020, if it is proven that they have been scheduled for renewal.

However, on 15<sup>th</sup> October 2020, Decree-Law 87-A/2020 was published, which determined the extension of the validity period of the documents that expired on or after 1<sup>st</sup> October 2020, to 31<sup>st</sup> March 2021.

On 17<sup>th</sup> March, Decree-Law no. 22-A/2021 was published, which once again determined the extension of the validity of the documents identified until 31<sup>st</sup> December 2021, being certain that, similarly to what was in force, also after the date defined for expiry of the validity of the documents, these will be valid, if the respective holders provide proof of the existence of an appointment for renewal of the validity of these documents.

### **D. ANNUAL CONFIRMATION OF BENEFICIAL OWNER CENTRAL REGISTRATION DECLARATION**

Decree-Law no. 22-A/2021 was published on 17<sup>th</sup> March 2021 and, among other measures, waived the annual confirmation declaration of the EBSR, regardless of the date of the initial declaration, and only provided that no fact that determines the alteration of the information in the EBSR has occurred.



For Portuguese companies this exemption has little practical relevance, as it was subject to confirmation through the submission of the IES.

In the case of entities not subject to the submission of IES, this exemption in the year 2021 will mean less bureaucratic burden.

## **E. EVENTS AND TRANSPORTATION**

Order no. 3301-D/2020 determines some additional measures of an exceptional nature, namely of a social nature.

Thus, the following measures have been determined:

- Prohibition of events, meetings or gathering of persons, irrespective of the reason and nature, of more than 100 persons;
- Prohibition of the consumption of alcoholic beverages in open air spaces;
- Suspension of regular and occasional international passenger transport services, with the exception of national citizens or holders of residence permits who wish to return to Portugal;
- Suspension of driving instruction and the respective tests and face-to-face professional certification training activities.

These measures take effect until 2<sup>nd</sup> May 2020 and may be subsequently extended.

## **F. PUBLIC SERVICES ACCESS**

Order 3301-C/2020 sets out the rules for access to public services, specifying the following rules:

- The service is provided exclusively by telephone and online;
- Attendance for non-informative purposes is only by pre-schedule, only for services that cannot be made online;
- Payments for face-to-face services must be made electronically;
- The scheduling of public services is made through the website [eportugal.gov.pt](http://eportugal.gov.pt).

## **G. AIR TRANSPORTATION OF PASSENGERS**

On 2<sup>nd</sup> May 2020, Ordinance no. 106/2020 was published, establishing a maximum limit for air transport, as well as the exceptions to this limit and its requirements, to ensure the

convenient distance between passengers and to guarantee their safety, both on scheduled flights and on flights other than the general rule on capacity.

Under the terms of the above-mentioned Ordinance, the allowed passenger capacity per aircraft is reduced to two thirds of the normal capacity, determining some exceptional situations in which it is allowed not to comply with the above-mentioned capacity limitations.

Ministerial Order 106/2020 was repealed by Ministerial Order 125/2020, of 25<sup>th</sup> May 2020, with effect from 1<sup>st</sup> June 2020, so that from that date the above-mentioned limitations no longer apply.

On 30<sup>th</sup> November 2020, Order no. 11836-B/2020 was published, which establishes the need for, among others, the presentation by third country nationals, before boarding, of proof of laboratory testing (RT-PCR) for screening for infection by SARS-CoV-2, with a negative result, carried out within 72 hours prior to the time of boarding.

Order No 666-B/2021 of 14<sup>th</sup> January amended the list of countries authorized to enter Portugal, with Uruguay removed, because they meet the epidemiological criteria as established by the European Council: Australia, China, South Korea, Japan, New Zealand, Rwanda, Singapore, Thailand, Hong Kong and Macao.

For the United Kingdom, in view of the emergence of a new variant of the virus originating in that country, Order No 12344/2020 was published on 20<sup>th</sup> December 2020 with a view to taking the necessary measures to limit the possibilities of spreading the new coronavirus variant.

Thus, any passenger with flights from the United Kingdom is subject to presentation a proof of laboratory testing (RT-PCR) for screening for infection by SARS -CoV-2, with a negative result, carried out within 72 hours prior to boarding.

On 22<sup>nd</sup> January 2021, in view of the rapid spread of the new Covid-19 strain, Order No 988-A/2021 was published, suspending all flights, commercial or private, from all airlines, from or to the United Kingdom, to or from Portuguese airports or aerodromes, until 5<sup>th</sup> February 2021.

The entry rights of nationals and their families and of holders of residence permits are not affected, only on humanitarian repatriation flights.

On 12<sup>th</sup> February 2021, Order No. 1689-C/2021 was published, which determined additional measures in this regard.

Firstly, all flights, commercial or private, to or from Brazil or the United Kingdom will be suspended.

They are authorized:

- All flights to or from the European Union and the Schengen Area (Liechtenstein, Norway, Iceland and Switzerland);
- Australia, China, South Korea, New Zealand, Rwanda, Singapore, Thailand, Hong Kong and Macao;
- essential travel to countries outside the European Union.

A list is nevertheless introduced of countries in the European Union, for which only essential travel is advised, without, however, any restriction being applicable.

On 26<sup>th</sup> February 2021 and 15<sup>th</sup> March 2021, Order no. 2207-A/2021 and Order no. 2807-A/2021 were published, respectively, which essentially maintained the aforementioned restrictions.

On 19<sup>th</sup> March 2021, Ministerial Order no. 3046-B/2021 was published, establishing measures applicable to passengers on flights with initial origin in South Africa who have stopped over or transited in countries where air traffic to Portugal is authorized.

## **H. CULTURAL SPECTACLES**

Regarding the cancellation and rescheduling of artistic activities, specifically festivals and shows of a similar nature, Law no. 19/2020 of 29<sup>th</sup> May was published, which brought, for the second time, additions and amendments to the provisions of Decree-Law no. 10-I/2020 of 26<sup>th</sup> March. The law in question has resolved several doubts that have existed to date.

Regarding the temporal scope, Law no. 19/2020, of 29<sup>th</sup> May finds application in situations of rescheduling or cancellation of shows whose performance ranged from 28<sup>th</sup> February 2020 to 30<sup>th</sup> September 2020, inclusive.

The publication of Law No. 19/2020 of 29<sup>th</sup> May has dictated from the outset that, unless it is possible to comply with the DGS rules on social distancing, the holding of festivals and

shows of a similar nature is prohibited until 30<sup>th</sup> September 2020, and this deadline may be extended or brought forward in accordance with a recommendation to this effect by DGS, thus committing the Government to meet and assess the evolution and state of the pandemic every 30 days.

The general rule of the law is that festivals or shows of a similar nature should, as far as possible, be rescheduled and, if impossible, cancelled.

Thus, festivals or shows of a similar nature should be cancelled if it is not possible to reschedule them to a date that is up to and including 30<sup>th</sup> September 2020.

Rescheduling will only be possible when the realization of the festival or spectacle of a similar nature does not depend on the possibility of doing so on a specific date(s), nor does it require a reduction in the maximum capacity of the venue, due to the commitment to comply with the rules of social distancing.

It should be noted, however, that festivals and shows of free entry may be held up to 18 months after the end of the ban on such events.

When the events in question can and are rescheduled, this fact cannot give the opportunity to refund the ticket price, nor can it be accompanied by an increase in the ticket price of the festival or event of a similar nature rescheduled for those who already had the ticket on the date of that had rescheduled.

If the realization of the festival or shows of similar nature is effectively cancelled and, in this sense, prohibited, will be attributed to the ticket holders of that event, vouchers of value equal to the price paid, which will be transferable and valid until 31<sup>st</sup> December 2021. These vouchers may be used to obtain tickets to other shows organized by the same promoter. If the value contained in the voucher is less than the ticket price, it may be used as the principle of payment; if, on the other hand, it is greater, the remainder may be used to obtain tickets to other shows by the same promoter.

If the value of the voucher is not used by the stipulated date, the voucher holder may request a refund of the amount associated with the voucher.

On the other hand, with the publication of Law no. 19/2020 of 29<sup>th</sup> May, the legal meaning of "force majeure" is attributed to the cancellation of festivals and events of a similar nature.

Even so, the parties involved in the realization of festivals and shows of a similar nature must maintain the contracts entered into or in the process of being entered into on the date of publication of the law in question, carrying out the maintenance of the objects associated with them and pursuing their objectives.

## **I. ESSENTIAL PUBLIC SERVICES**

In the midst of a calamity, Law 18/2020 of 29<sup>th</sup> May amended Law 7/2020 of 10<sup>th</sup> April, which establishes exceptional and temporary regimes of response to the Covid-19 pandemic, and extends the deadlines for family support measures.

Specifically, the Law determines that the suspension of the supply of essential services such as water, electricity, natural gas and electronic communications is not allowed until 30<sup>th</sup> September 2020, and the deadline for families to benefit from these measures is extended - it should be recalled that this support was only foreseen for the period of execution of the state of emergency and the following month.

This ban only applies when motivated by unemployment, a fall in household income of 20% or more, or by infection by Covid-19, and consumers who are in one of these situations may, until 30<sup>th</sup> September 2020, request (i) the unilateral termination of telecommunications contracts, without compensation to the supplier, (ii) the temporary suspension of telecommunications contracts, without penalties or additional clauses for the consumer, resuming on 1<sup>st</sup> October 2020.

In the case of consumers who require figures for the provision of such services, a payment plan should be drawn up together with the provider of the service in question.

## **J. RETIREMENT SAVINGS PLANS**

Furthermore, this Law establishes that, until 30<sup>th</sup> September, the amount of the Retirement Savings Plans may be reimbursed, up to the monthly limit of the index of social support, by the participants of these plans and provided that they are not included in the social support:

- One of the members of your household is in a situation of prophylactic isolation or illness, or is caring for children or grandchildren, or
- Has been placed in a reduction of the normal working period or in suspension of the employment contract, due to a business crisis, in a situation of unemployment

registered with the Institute for Employment and Professional Training, I.P., as well as being eligible for the extraordinary support for the reduction of the economic activity of a self-employed worker or;

- Is a worker of entities whose establishment or activity has been closed down during the state of emergency or during a situation of calamity due to legal or administrative imposition.

In short, these measures follow the approval of a package of measures aimed at supporting and protecting families that have lost their income.

Lisbon, 19<sup>th</sup> April 2021

Rogério M. Fernandes Ferreira

Marta Machado de Almeida

Vânia Codeço

Tomás Calejo Abecasis

Duarte Ornelas Monteiro

Rita Arcanjo Medalho

Soraia João Silva

Rita Lima Sousa

José Oliveira Marcelino

Sérgio Ferreira Carmo

Joana Marques Alves

Frederico Ferreira da Silva

Patrícia Conceição Duarte

Raquel Cabral Duarte



Legal 500 – Band 1 Tax “Portuguese Law Firm” / Band 1 Tax “RFF Leading Individual” and highlighted in “Hall of Fame”, 2013, 2014, 2015, 2016, 2017, 2018, 2019  
Chambers & Partners – Band 1 Tax “RFF Ranked Lawyer”, 2013, 2014, 2015, 2016, 2017, 2018, 2019 and Band 1 “Private Wealth Law” - HNW “RFF Ranked Lawyer”, 2018  
International Tax Review – “Best European Newcomer” (shortlisted) 2013 / “Tax Controversy Leaders”, 2014, 2015, 2016, 2017, 2018, 2019 / “Indirect Tax Leaders”, 2015, 2016, 2017, 2018, 2019 / “Women in Tax Leaders Guide”, 2015, 2016, 2017, 2018, 2019 / “European Best Newcomer”, 2016 / “Tax Firm of the Year”, “European Tax Disputes of the Year” and “European Indirect Tax Firm of the Year”, (shortlisted) 2017  
Best Lawyers – “RFF Tax Lawyer of the Year”, 2014 / “Recommended Lawyers”, 2015, 2016, 2017, 2018  
Who’s Who Legal – “RFF Corporate Tax Adviser of the Year”, 2013, 2015, 2016 / “RFF Corporate Tax Controversy Thought Leader”, 2017 “Corporate Tax: Advisory and Controversy”, 2017, 2018, 2019  
Legal Week – RFF was the only Portuguese in the “250 Private Client Global Elite Lawyers” 2018  
STEP Private Clients Awards - RFF “Advocate of the Year 2019” (shortlisted)  
IBFD Tax Correspondent Angola, Mozambique and East-Timor, 2013, 2014, 2015, 2016, 2017, 2018, 2019

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