

Amendments of the Employment retention aid

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Introduction

The below expert summary contains the main aspects of the employment retention aid adopted by the Hungarian Government, including:

- (i) the conditions for the assumption of salary by the Hungarian Government;
- (ii) the rules of application for the assumption of salary by the Hungarian Government
- (iii) other amendments

Conditions for the assumption of salary by the Government 1.

According to the rules published on 21 April 2020 („**Government Decree**“), the former conditions of the employment retention aid have been modified.

The Government Decree contains a lot of substantial amendments, e.g. the definition of shortened working time and individual development time have been amended, the amount of the retention aid depends on the base salary effective on the day of the submission of the request and it is not always mandatory to agree on individual development time.

A **tax-free** state aid may be requested for the salary of employees who work in shortened working time, i.e., if, according to the employment agreement amended after the publication of the state of emergency, the working time reaches 25%, but does not exceed 85% of the working time on a three-month average, calculated on the basis of the employment agreement before the amendment. One of the conditions of the retention aid therefore is that the working time – in regard to the state of emergency – shall be reduced by at least 15%, but by not more than 75%.

The amount of the retention aid:

- 70% of the shortened working time, based on the base salary reduced by the advance payment of personal income tax and contributions in accordance with the general rules,
- the maximum amount of the base salary that may be considered for the above purposes cannot exceed 2-times the net minimum wage (i.e., 2 times the statutory monthly net of 107,065 HUF).

Conditions for the assumption of salary by the Government 2.

The employee and the employer undertake to agree on shortened working hours and individual development time beyond the shortened working hours for at least the duration of the aid.

The employee shall undertake that

- a) he/she will work in shortened working time and
- b) should he/she find another employment, later, this will not hinder him/her in being employed by the employer again under the original terms and conditions of the employment agreement, namely in full working time;
- c) he/she will be at the disposal of the employer in the individual development time (30% of the "lost" working time, during which the employee shall carry out development activities linked to his/her scope of work or the activities of the employer), however, employer and the employee shall only agree on individual development time if the shortened working time exceeds 50% of the working time based on the employment agreement before the amendment.

The employer shall undertake additionally that

- a) It retains the employment of the employee concerned by the retention aid during the term of the retention aid and for another month thereafter, except in cases of the employer's immediate dismissal or by the employee's termination;
- b) during the term of the payment of the retention aid, it shall not order any extraordinary work for the employee concerned;
- c) in line with the cooperation and information obligation, any changes affecting the conditions of the retention aid and the length of the shortened working time shall be reported to the labour authority within 2 working days;
- d) combined with the retention aid, the amount of the salary shall reach the amount of the base salary effective on the day of the submission of the request, except if the shortened working time does not exceed 50% of the working time based on the employment agreement prior the amendment,
- e) it pays salary for the individual development time, except if the shortened working time does not exceed 50% of the working time based on the employment agreement prior to the amendment, but the parties agrees on the individual development time.

Applying for the assumption of salary by the Government

In order to receive the aid, the employee and the employer must also prove that the following conditions are met:

The employee :

- a) shall not receive any other part-time employment allowance in respect of the same employment.
- b) shall be employed by the employer at least from the date of the declaration of the state of emergency, and
- c) shall not be spending his/her notice period.

As for the employer:

- a) it will employ the employee for shortened working time – including teleworking and home office - in order to keep the headcount of the employees and avoid redundancies;
- b) the employer has been operating for at least 6 months, and
- c) the employer and the employee applying jointly for the state aid have not been provided with other allowances by the state aiming the creation or retention of jobs, further for employment of employees aiming R&D
- d) the employer shall comply with the preconditions of employment - specified in the Government Decree on the Implementation of the Public Finance Act - and these conditions are declared ,as specified in separate legislation,
- e) no winding-up, liquidation and bankruptcy proceeding shall be ordered against the employer with the final decree of the court and , there can be no other pending legal procedure aiming the termination of the employer.

Applying for the assumption of salary by the Government

How to apply for the aid?

- The employer and the employee shall file a joint request;
- The amended employment agreement may be attached, otherwise, the working hours (and the individual development time) will be changed from the date of the decision during the term of the application;
- The application shall be submitted during the state of emergency or within 1 month after its cessation;
- The employer must demonstrate that the economic rationale for part-time employment is directly and closely related to the state of emergency and provide credible evidence that the retention of employees is in the national economic interest in the context of its continuing economic activity;
- The request shall be filed electronically to the National Employment Service (NES) on the form to be published on its website;
- The labor law authority decides on the request within 8 working days from filing thereof;
- In case of an eventual rejection of the request, the documentation may be filed once again, however, the decision of the labor authority cannot be appealed.
- In the case of the cessation of the employment relationship, the aid shall be terminated.

The aid cannot be applied for:

- In case the employer unilaterally reassigned the employee to a job or workplace other than what is contained in the employment agreement, or to another employer.

As the Decree enters into force on 29 April 2020, if the electronic form becomes available on the following day and the employer and the employee can make all declarations immediately and sign an agreement, the first decisions on the aid can be expected around 12 May 2020 at the earliest.

Other amendments

- The employer is no longer obliged to close the frame working time;
- The aid can also be applied in case of temporary agency work;
- An important change is that it is not necessary to declare what measures the employer had taken to bridge the employment consequences of the effects of the COVID-19 epidemic.
- The employer shall undertake to retain the employee applying jointly for the state aid with the employer during the term of the payment of the retention aid and for another month thereafter; thus it only applies to the employee applying jointly for the state aid and not to other employees;
- By the force of the Government Decree, on the day of the decision, the employment contract is amended regarding the shortened working time and individual development time during the term of the application, unless the parties have already amended the employment contract before submitting the application.

The health of its colleagues and clients is of paramount importance to KPMG Hungary



1,400 of our colleagues work from home



The continuity of our business and our availability remain undistrupted



We provide special support to our clients - Covid-19 newsletters and webinars

Let's take care of each other!

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Thank you!

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