



COVID-19, accounting for state aid

Legislation reflecting the situation as of 25 April 2020

In connection with the pandemic caused by the spread of the dangerous contagious human disease COVID-19, several laws have been adopted to help overcome its negative consequences. They were preceded by the declaration of an **emergency situation** based on Resolution of the Government of the Slovak Republic No. 111 of 11 March 2020 (the emergency situation was declared on 12 March 2020) and the declaration of a **state of distress** based on Resolution of the Government of the Slovak Republic No. 114 of 15 March 2020 owing to the COVID-19 disease caused by coronavirus SARSCoV-2 in the territory of the Slovak Republic.

Many of the existing laws have been amended, for example:

- the Labor Code,
- Act No. 461/2003 Coll. on Social Insurance,
- Act No. 5/2004 Coll. on Employment Services,
- Act No. 448/2008 Coll. on Social Services,
- Act No. 124/2006 Coll. on Occupational Safety and Health Protection,
- Act No. 580/2004 Coll. on Health Insurance,
- and several other laws.

Some **new laws** have also been adopted, for example, new Act No. 62/2020 Coll. of 25 March 2020 on certain extraordinary measures in relation to the spread of the dangerous contagious human disease COVID-19 and in the judiciary, which was subsequently amended by Act No. 92 /2020 of 22 April 2020. It aimed to create a legal framework for providing **temporary protection** to enterprises affected by the negative impacts of the spread of the COVID-19 disease. Temporary protection applies to cases where enterprises need such legislation primarily due to pressure exerted by their creditors.

Accounting legislation – refers to Act No. 431/2002 Coll. on Accounting (hereinafter referred to as the "Act on Accounting"), the chart of accounts and the accounting procedures for entrepreneurs (hereinafter referred to as the "Accounting Procedures") and the Decrees of the Finance Ministry of the Slovak Republic on financial statements micro-, small and large accounting entities and public interest entities - **has not changed**.

The following was apparently most important for the **financial area**:

- the adoption of **new** Act No. 67/2020 Coll. of 2 April 2020 on certain extraordinary measures in the **financial area** in relation to the spread of the dangerous contagious human disease COVID-19 (also dubbed "**Lex Corona**", hereinafter referred to as the "Act on Extraordinary Measures in the Financial Area"); this Act has been amended twice in the meantime, namely by Act No. 75/2020 of 6 April 2020 and Act No. 96/2020 of 22 April 2020),
- an amendment of 25 March 2020 to the **existing** Act No. 5/2004 Coll. on Employment Services, to which Article 54 on **projects to support job retention** has been added.

These laws regulate **various aspects** related to the pandemic, such as home office, the taking of leave, the organization of working time, protection of employees and prohibition of dismissal, extension of deadlines for filing tax returns and other documents, postponement of deadlines for payment of health and social insurance contributions and advance payments for tax, suspension of tax inspections, financial compensation to retain jobs, financial aid for maintaining business operations, deferral of loan installments, an increase in the spending limit for contactless card payments, facilitation of the *per rollam* voting for collective bodies of private legal entities, limitation to the requirement to hold court hearings and participation of the public in such hearings, temporary ban on exercising the right of lien and auction, restriction to the running of limitation and prescription periods in private-law based relations, and so forth.

The purpose of these News is to highlight the measures which, from the viewpoint of **companies** maintaining accounts according to the Accounting Procedures for **Entrepreneurs**, constitute **state aid** that should be recognized as **subsidies from the state budget or the European Union's funds** according to Article 52a of the Accounting Procedures. Therefore, most of the aforementioned legislative amendments are not discussed in these News, such as the extension of time limits, postponement of deadlines, deferral of installments etc.

The issues to be discussed will be divided as follows:

- the Act on Extraordinary Measures in the Financial Area ("Lex Corona"),
- the project to support job retention,
- accounting for state aid as subsidies from the state budget or the European Union's funds.

As the situation is changing rapidly, with legislation being amended virtually on a daily basis, we recommend that you carefully monitor these changes. What applies today may not apply tomorrow.

Act on Extraordinary Measures in the Financial Area ("Lex Corona")

This Act was adopted on 2 April 2020 and has been amended twice to date. It regulates measures in areas **within the competence of the Finance Ministry** of the Slovak Republic. Measures referred to in this Act will be applied during the following period:

- from 12 March 2020, when the government declared an emergency situation,
- until the end of the calendar month in which the government lifts the emergency situation, (hereinafter referred to as the "**period of pandemic**"); see Article 2.

These measures apply to the following areas (only a brief outline is given, except for measures directly concerning accounting and deduction of tax loss):

1. taxes, customs duties and accounting (Article 3 to Article 24o):

- a) tax administration (method of delivery of documents, failure to comply with a time limit, delivery, suspension of tax inspection, publication in the Financial Administration lists, suspension of tax proceedings, forfeiture of the right to impose tax and statute-limitation and forfeiture of the right to recover unpaid tax, back taxes, overpayment of tax, postponement of repossession proceedings for the collection of taxes, administrative offenses and sanctions),
- b) import of goods (exemption of goods from import tariffs and value added tax if goods are imported to support victims of a natural disaster),
- c) civil service of members of the Financial Administration,
- d) tax on motor vehicles (time limit for filing a tax return and tax due date),
- e) administrative fees (administrative fees are not paid for certain acts and proceedings of administrative bodies),
- f) **accounting (Article 20):**
 - during the period of pandemic, deadlines referred to in the Act on Accounting are considered met if an accounting entity fulfills the delayed obligations **by the end of the third calendar month following the end of the period of pandemic**, or by the expiration of the deadline for filing a tax return according to Article 21 (1), whichever expires earlier,
 - if, during the period of pandemic, an accounting entity is objectively unable to fulfill obligations referred to in the Act on Accounting for staffing or technical reasons owing to the negative consequences of the pandemic, the accounting entity shall not be deemed to have breached these obligations if the accounting fulfills these obligations **by the end of the third calendar month following the end of the period of pandemic**,
 - if the time limit for the imposition of a fine according to Article 38 (8) of the Act on Accounting commences prior to the beginning of the period of pandemic and does not expire until the beginning of the period of pandemic, **the period of pandemic will not be included in this time limit**,
- g) income tax (income tax return, remittance and utilization of a proportion of income tax paid, notification of withdrawal and payment of income tax by a healthcare provider, report and annual clearing, advance payments for income tax, deduction of tax loss); based on Act No. 96/2020 of 22 April 2020, **Article 24b Deduction of Tax Loss** has been added:
 - a tax liable entity that is a corporate entity may deduct available tax losses reported in taxation periods ending in 2015-2018 from the tax base in the amount of up to a total of 1,000,000 euros if the last day of the time limit for filing the income tax return for the taxation period expires during the period from 1 January 2020 to 31 December 2020,
 - a tax liable entity whose taxation period is a financial year may apply the deduction of tax loss referred to in paragraph 1 in the tax return for a taxation period ending at the earliest on 31 October 2019,
 - tax loss referred to in paragraph 1 shall be gradually deducted from the earliest reported tax loss to the latest reported tax loss,
- h) the use of cash registers (fulfillment of notification obligations, fine imposed on the spot)
- i) the customs area and the enforcement of intellectual property rights by customs authorities (delivery, postponement of recovery of outstanding payments, cessation of responsibility, failure to meet the deadline for the payment of costs related to the enforcement of intellectual property rights by customs authorities),

- j) value added tax and consumption taxes (special regulation of publication in certain lists concerning value added tax, certain conditions of a refund of excess tax deduction, application of a reduced tax rate, presence of an employee of the customs authority, revocation of a license and deletion from the register),
 - k) local development fee,
 - l) local taxes and local fees,
- 2. financial market (Article 25 to Article 30n):**
- a) financial aid [financial aid for maintaining business operations in small or medium-sized enterprises (= "a small employer"), which may be granted in the form of:
 - a loan guarantee and
 - payment of loan interest (= "interest subsidy")],
 - b) oversight of the financial market (for example, according to Article 29, the National Bank of Slovakia may, among other things, extend certain time limits for entities subject to oversight or other entities, which we believe also applies to the deadline for submitting financial statements and an auditor's report),
 - c) deferral of installments of a loan provided to a consumer (deferral of installments, information obligations of a creditor, other obligations of a creditor, effects of deferral of installments on data in the electronic register of consumer loan data, payment of state subsidies when installments are deferred),
 - d) deferral of repayment of a loan provided to a small employer and other sole trader (deferral of loan repayment, information obligations of a creditor, other obligations of a creditor),
 - e) contactless payments (spending limit for contactless card payments),
- 3. budgetary rules (Article 31 to Article 36):**
- a) measures concerning a breach of financial discipline,
 - b) measures for territorial self-governments..
- 4. internal audit, government audit and financial control (Article 36a, Article 36b),**
- 5. assets of public administration (Article 36c).**

In our opinion, **payments of loan interest (= "interest subsidy")** take the form of **state aid that should be recognized as subsidies** from the state budget or the European Union's funds according to Article 52a of the Accounting Procedures, which is why the issue will be discussed below.

Deferral of repayment of a loan provided to a small employer and other sole trader (Article 30i to Article 30m) may also come into consideration. As the period of deferral of loan repayment is subject to interest charges (i.e. not exempt from interest charges) and the creditor will factor interest due for the period of deferral of loan repayment into the remaining loan installments due after the expiration of the period of deferral of loan repayment, unless the creditor and the debtor agree otherwise (Article 30j (13)), we are of the opinion that this measure is generally not in the nature of the aforementioned form of state aid. It is merely the postponement of loan repayment (the liability to repay the loan continues to exist, does not cease), and the recipient of the loan will pay a price called interest for this postponement.

- However, this will, of course, depend on the terms and conditions agreed upon in a specific loan agreement. For example, if the interest charges pertaining to the period of deferral of loan repayment were to be paid by the state for a small employer (similarly to an interest subsidy, see below; however, this is not considered in the Act), the accounting assessment would be different and the above would be recognized as subsidies according to Article 52a of the Accounting Procedures.
- On the other hand, deferral of loan repayment may have an impact on the presentation of loans in the balance sheet as short-term or long-term loans (part of them will be transferred from short-term loans to long-term loans).

Financial aid to support maintaining business operations in small or medium-sized enterprises

This aid is laid down in Article 25 of the Act on Extraordinary Measures in the Financial Area. Some of its provisions are discussed below.

Note: For the sake of completeness, please note that **similar provisions** existed before the adoption of this Act (and are still in place) in **Act No. 5/2004 Coll. on Employment Services**, namely Article 53e Financial Aid to Support Employment in Small and Medium-Sized Enterprises. The substance of financial aid is the same in both Acts with regard to addressees, forms, conditions, and responsibility of a bank. Differences are, for example, in that:

- the Act on Employment Services refers to support for maintaining "employment" [job retention], whereas this Act refers to support for maintaining "operations",
- according to the Act on Employment Services, the Finance Ministry may grant financial aid via a "selected bank or branch of a foreign bank", whereas this Act makes it possible only via the Export-Import Bank of the Slovak Republic and the Slovak Guarantee and Development Bank a.s.,
- regarding an interest subsidy, the Act on Employment Services states that it may be granted for the payment of part of interest on a loan, whereas this Act states that it may be granted for the payment of interest (it does not refer to "part of interest").

In order to mitigate the negative impacts of the pandemic and support maintaining business operations in **small or medium-sized enterprises** according to special legislation*) (hereinafter referred to as a "**small employer**"), the Finance Ministry may grant **financial aid**. Financial aid is granted via institutions, which are the **Export-Import Bank of the Slovak Republic** and the **Slovak Guarantee and Development Bank a.s.** (hereinafter referred to as the "**aid intermediary**"). See Article 25 (1).

*) *Special legislation is Annex I to Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.*

*The category of **micro, small and medium-sized enterprises ("SMEs")** is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total (the "net" column of a balance sheet prepared according to Slovak accounting legislation) not exceeding EUR 43 million. See Annex I, Article 1 (1) to the Regulation. However, the calculation may be more complex. This is because it is also taken into consideration whether this concerns an autonomous enterprise or linked enterprises etc.*

Financial aid referred to in paragraph 1 may be granted in the form of:

- a) **loan guarantee** provided by an aid intermediary,
- b) **payment of interest on a loan** provided by an aid intermediary (hereinafter referred to as an "interest subsidy").

See Article 25 (2).

Loan guarantee. A loan guarantee provided by an aid intermediary for purposes referred to in paragraph 1 is the commitment of the Finance Ministry to discharge a small employer's liability under a loan agreement concluded between the aid intermediary and the small employer if the small employer does not meet this liability. See Article 25 (3).

If the Finance Ministry **discharges a liability related to a guarantee** for a loan of a small employer to an aid intermediary (= repays the loan instead of the small employer), the Finance Ministry will have a **receivable from the small employer** in the amount of this repayment (hereinafter referred to as a "receivable related to a performed guarantee"). **The small employer is required to repay to the Finance Ministry** the receivable related to the performed guarantee plus interest in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates. See Article 25 (8). Therefore, the small employer will transfer the liability to the Export-Import Bank of the Slovak Republic or the Slovak Guarantee and Development Bank to become the liability to the Finance Ministry a.s. on the liability side of the balance sheet.

A loan guarantee does not meet the criteria for state aid that is recognized as subsidies from the state budget or the European Union's funds according to Article 52a of the Accounting Procedures. A small employer should only indicate in the **Notes to the Financial Statements**, as the third part of financial statements of entrepreneurs, that a loan received by the small employer is guaranteed by the Finance Ministry.

Interest subsidy. An interest subsidy may be granted to a small employer from the state budget if the small employer:

- a) during the period specified in the loan agreement concluded between an aid intermediary and the small employer, **maintains the employment [job retention] level** specified in the loan agreement, and
- b) at the end of the period specified according to a), the small employer **has no overdue liabilities** to the Social Insurance Company or a health insurance company with respect to social insurance contributions, mandatory contributions to old-age pension saving or mandatory public health insurance contributions in excess of the amount specified in the loan agreement.

See Article 25 (5).

The Act does not stipulate whether a subsidy may be granted only for the total amount of interest (for example, if the interest rate was 4%, the subsidy would have to amount to 4% as well) or whether it may also be granted partially (less than 4%).

In our opinion, an interest subsidy meets the criteria of state aid that is recognized as subsidies from the state budget or the European Union's funds according to Article 52a of the Accounting Procedures. A small employer should recognize **the amount of interest** as

- interest expense,
- liability to the aid intermediary,

and, at the same time, recognize **the amount of the subsidy** pertaining to interest recognized as described above as

- receivable from the aid intermediary,
- other financial income.

Sanctions. Compliance with the terms and conditions of granting financial aid should be assessed by the **aid intermediary** (Article 25 (15)). Among other things, this is related to the fact that, according to Article 25 (7), it is the aid intermediary who is responsible for:

- a) compliance with the conditions for providing a loan guarantee according to paragraph 3,
- b) compliance with the conditions for granting an interest subsidy,
- c) return of the interest subsidy if the conditions for granting the interest subsidy are not complied with.

Compliance with the conditions for granting state aid is monitored by the **Finance Ministry**, which will impose possible sanctions on the aid intermediary up to double the amount of the loan; sanctions to be imposed on a small employer are not laid down in the Act (Article 25 (11) and (12)). In view of this fact, we are of the opinion that it is in the interest of an aid intermediary that sanctions on a small employer will be specified in the loan agreement concluded between the aid intermediary and the small employer.

Effective date. As the Act has already been amended twice, it is necessary to follow the effective dates of the individual amendments:

- Act No. 67/2020 of 2 April 2020 entered into force on 4 April 2020,
- the amendment based on Act No. 75/2020 of 7 April 2020 entered into force on 9 April 2020,
- the amendment based on Act No. 96/2020 of 22 April 2020 entered into force on 25 April 2020.

This means that the measures referred to in this Act will not be reflected in financial statements prepared as of 31 March 2020 or earlier, except for certain "retroactive measures" such as tax losses carried forward.

Project to support job retention

The full title of this project is the "Project to support job retention at the time of a declared emergency situation, state of distress or state of emergency and to eliminate their consequences", sometimes also colloquially referred to as the "First Aid" Project. The legal basis of the project was the addition of a new provision to Act No. 5/2004 Coll. on Employment Services by means of Act No. 63/2020 Coll. of 25 March 2020, which entered into force on 27 March 2020 – it has been added to Article 54 Projects and Programs that "projects to support the retention of jobs, including jobs related to the performance or operation of self-employment activity and to support the retention of jobs for employees in connection with the declaration of an emergency situation, state of distress or state of emergency and to eliminate their consequences, which shall be approved by the Ministry or by the Center following the approval of the terms and conditions by the Government of the Slovak Republic and implemented by the Center or by the Office" [Article 54 (1) (e)] are also considered active labor market policies.

It transpires from the above that the terms and conditions must be **approved by the Government** of the Slovak Republic. Until now, the Government:

- at the session held on 31 March 2020, approved Measure 1 and Measure 2,
- at the session held on 14 April 2020, repealed certain terms and conditions in Measure 1, specified the terms and conditions and reduced the group of eligible applicants within Measure 2, and added Measure 3 and Measure 4.

This means that Measure 1, 2, 3 and 4 are in place at the present time. The Ministry of Labor, Social Affairs and Family of the Slovak Republic established a special website www.pomahameludom.sk containing all information about these Measures, through which it is possible to file an application for a contribution for job retention. Some of the four Measures apply to employers in general (including self-employed persons), whereas some only apply to self-employed persons and others only to individuals who have no other income. These are also related to public orders issued by the Public Health Authority of the Slovak Republic (hereinafter referred to as the "PHA").

The following four Measures are in place:

- Measure 1 - Support for employers who closed or restricted their business operations at the time of a declared emergency situation, state of distress or state of emergency based on the PHA Measure,
- Measure 2 - Support for self-employed persons who closed or restricted their business operations at the time of a declared emergency situation, state of distress or state of emergency based on the PHA Measure or whose sales declined,
- Measure 3 – Support for employers affected by the emergency situation,
- Measure 4 – Support for selected groups of individuals who have no other income at the time of a declared emergency situation.

Eligible period. The eligible period of the project is the period:

- from the date of restriction to certain business operations based on the PHA Measure when public health is endangered, i.e., from 13 March 2020 throughout the duration of the emergency situation,
- until the end of the calendar month in which the PHA Measure will be repealed, but no longer than until 31 December 2020.

Budget. Funds will be provided from the resources of the European Social Fund (hereinafter referred to as the "ESF") and the state budget in the amount of 1,382,500,000 euros.

Undertaking in difficulty. A so-called undertaking in difficulty cannot receive state aid. See Chapter 2.2. (paragraphs 19 to 24) of the Communication from the European Commission - Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (2014/C 249/01). An undertaking in difficulty has, for example, the following characteristics:

- accumulated losses exceed half of its registered capital, or

- the undertaking's debt to equity ratio is greater than 7.5 (i.e., debt amounts to 7.5 times equity capital) and, at the same time, the undertaking's EBITDA interest coverage ratio (earnings before interest, taxes, depreciation, and amortization) is below 1.0 (i.e., EBITDA is not sufficient to cover interest),
- etc.

The term "undertaking in difficulty" is also contained in Article 2 (18) of Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty. Its definition is similar to that contained in the aforementioned Communication, albeit not quite identical.

According to Article 24 of the Communication, it applies that the definition contained in the Regulation or Communication based on which a contribution is granted should be used for the purpose of assessment of an undertaking in difficulty.

According to information from recent days, the Slovak Republic managed to negotiate with the EU exemption for granting state aid in connection with COVID – 19 to an undertaking in difficulty. Therefore, we recommend that you continuously monitor the legislative process.

The details of Measures 1, 2, 3 and 4 are not discussed here; only a basic description of each Measure is provided below.

Measure 1 - Support for employers who closed or restricted their business operations at the time of a declared emergency situation, state of distress or state of emergency based on the PHA Measure

Eligible applicant: an employer (except from public administration entities), including a self-employed person who retains jobs during a declared emergency situation even if it is required to suspend or restrict its business operations based on the PHA Measure.

Target group: an employee to whom an employer cannot assign work owing to an obstacle on the part of the employer (Article 142 of the Labor Code).

Eligible expenses: contributions to the payment of employee wage compensation in the **amount of 80% of the employee's average earnings**, up to a maximum of 1,100 euros.

Measure 2 - Support for self-employed persons who closed or restricted their business operations at the time of a declared emergency situation, state of distress or state of emergency based on the PHA Measure or whose sales declines

Eligible applicant: a self-employed person who suspended or restricted the performance or operation of self-employment activity at the time of a declared emergency situation based on the PHA Measure or a self-employed person whose sales declined. Among others, this also applies to auditors, tax advisors, notaries, attorneys, liberal professions (actors, choreographers, dancers, musicians, journalists, sculptors etc.), farmers etc.

Eligible expenses: a contribution to compensate the loss of income from gainful activities for self-employed persons owing to a decline in sales. The contribution for March 2020 is up to a maximum of 270 euros; the contribution for April and May 2020 is up to a maximum of 540 euros.

Measure 3 – Support for employers affected by the emergency situation

Eligible applicant: an employer (except from public administration entities), including a self-employed person who is an employer, which retains jobs during a declared emergency situation even if its business operations are suspended or restricted.

Target group: an employee who commences work on 1 March 2020 at the latest.

Eligible expenses: a contribution for:

- the payment of wage compensation for an employee to whom an employer cannot assign work owing to an obstacle on the part of the employer (Article 142 of the Labor Code), **in an amount which may not exceed 80% of the employee's average earnings**, up to a maximum of 880 euros, or
- **flat-rate contribution** for the payment of part of labor costs for each employee, **depending on the decline in the employer's sales**; the contribution for March 2020 is up to a maximum of 270 euros, the contribution for April and May 2020 is up to a maximum of 540 euros.

No guideline has yet been issued regarding the **calculation of a decline in sales**. There is Government Regulation No. 76/2020 Coll. of 9 April 2020 on the method of calculation of a decline in net turnover and income from business and other self-employment activity, but it was issued pursuant to Article 293ew (2) (a) of Act No. 461/2003 Coll. on Social Insurance. Therefore, it only applies to the postponement of the payment of insurance contributions referred to in Article 293ew (1); it does not apply to Measures 1, 2, 3 and 4.

Measure 4 – Support for selected groups of individuals who have no other income at the time of a declared emergency situation

Eligible applicant: an individual who has no other income (from business, non-business and dependent activity [employment]) from 13 March 2020 and is a self-employed person or in a labor relationship on the basis of an agreement outside an employment relationship.

Amount of the contribution: a flat-rate contribution to compensate the loss of income from gainful activities in the amount of 105 euros for March 2020 and in the amount of 210 euros for April and May 2020.

The above is the basic description of the individual measures. Measures 1 and 3 apply to **companies** maintaining accounts according to the Accounting Procedures for **Entrepreneurs**. Contributions referred to in both Measures constitute **state aid** that should be recognized as **subsidies from the state budget or the European Union's funds** according to Article 52a of the Accounting Procedures.

A company should recognize:

- labor costs,
- a liability to employees, social and health insurance authorities (levies), the tax authority (advance payment for personal income tax)

and, at the same time, recognize the **amount of an entitlement** to state aid as:

- receivable,
- other operating income.

Each Measure also contains certain **conditions** that an applicant must meet; some of the conditions must be met as of the date of submission of an application for granting a financial contribution, whereas other conditions must only be met afterwards. An applicant should declare the fulfillment of these conditions by means of an **affidavit** attached to the application. The applicant swears that he has already fulfilled the conditions concerning the past and will fulfill the conditions concerning the future.

For example, Measures 1 and 3 contain the conditions that an applicant:

- **meets as of the date of submission of an application**, for example, the applicant:
 - o pays wage compensation to its employees,
 - o does not request a contribution for employees who are subject to a notice period,
 - o was not an undertaking in difficulty as of 31 December 2019,
 - o has fulfilled its tax and levy obligations,
 - o etc.,
- **will meet in the future**, for example:
 - o the applicant will not **terminate the employment relationship** of an employee/employees by means of a notice of termination or for reasons referred to in Article 63 (1) (a) and (b) of the Labor Code for **two calendar months following** the calendar month for which the contribution is provided.

Sanctions. The facts sworn by an applicant may be subject to subsequent inspections. When an applicant confirms that information contained in the application is correct and accurate, the applicant must be aware of the legal consequences of an untrue statement, including possible consequences under criminal law pursuant to Penal Code No. 300/2005 Coll. (Article 221 – Fraud, Article 225 – Subsidy Fraud, Article 261 – Damage to the Financial Interests of European Communities).

Effective date. Measures 1 and 2 were approved by the government as early as 31 March 2020, which is why an entitlement to state aid should be recognized in financial statements prepared as of 31 March 2020. However, it is necessary to be familiar with the then wording of these measures, because they were subsequently amended at the government session held on 14 April 2020 (for example, part of Measure 2 was transferred to Measure 3). Measures 3 and 4 were approved by the government on 14 April 2020. The <https://rokovania.gov.sk/RVL/Negotiation> website contains information on government sessions in chronological order, as well as the individual documents submitted, explanatory reports, resolutions adopted, and so forth.

Accounting for state aid as subsidies from the state budget or the European Union's funds

As the situation is changing rapidly, with legislation being amended virtually on a daily basis, accounting legislation is discussed here in a broader context, so that you can use it even if the parameters of existing state aid are changed or new forms of state aid are introduced. As almost 200 Slovak accounting entities prepare their financial statements according to the IFRS as adopted by the European Union instead of Slovak legislation, the former is discussed as well.

There are two groups of subsidies from the state budget or the European Union's funds – subsidies related to assets and subsidies related to compensation for expenses (Article 52a of the Accounting Procedures), similarly to IAS 20 *Accounting for Government Grants and Disclosure of Government Assistance*.

Regarding state aid discussed above, the following has the character of **subsidies related to compensation for expenses**:

- a subsidy for interest on loans,
- a contribution for the payment of costs as referred to in Measure 1 and Measure 3 (applicable to companies – entrepreneurs).

Subsidies related to assets are also discussed below in case state aid concerning the COVID-19 disease also takes the form of subsidies related to assets.

An entitlement to a subsidy in return for past or future compliance with certain conditions should be recognized as:

- **receivable** debited to account 346 – *Subsidies from state budget* or account 347 – *Other subsidies*
- with a corresponding credit entry in account **384 – Deferred income** or directly credited to an **income** account to ensure that the subsidy is recognized as income in the period corresponding to the recognition of related expenses in terms of substance and time.

An entitlement to a subsidy should be recognized if it is **virtually certain** that:

- all conditions related to the subsidy will be met and, at the same time,
- the subsidy will be granted.

See Article 52a (1) of the Accounting Procedures.

Please note that not all of the conditions must be met as of the date of an entitlement to a subsidy, which is why the term "past or future fulfillment" is used. In our description of Measures 1 and 3, we stated that certain conditions must be met as of the date of submission of an application (= **past** fulfillment), whereas others must be met in the future (= **future** fulfillment, for example, that the employment relationship of employees will not be terminated during the **following two months**). For the purpose of recognition of an entitlement to a subsidy, it is therefore important for an accounting entity to assess whether it is **virtually certain** that these conditions will be met in the future. This sometimes requires a fair dose of subjective judgment, because anything concerning the future is associated with a certain element of uncertainty. An entitlement to a subsidy should not be recognized if it is not virtually certain.

When read together with IAS 20, we can see that an entitlement to a subsidy should be recognized approximately at the same moment as according to IAS 20.7, according to which an entitlement to a subsidy is recognized only when there is **reasonable assurance** that the entity will comply with any conditions attached to the grant and, at the same time, the grant will be received in the future. In our opinion, the term "virtually certain" approximately corresponds to the term "reasonable assurance" for this purpose. According to the Accounting Procedures, in the past, an entitlement to a subsidy was recognized only after the conditions for granting the subsidy were met, i.e., the conditions had to be met in the past. This has been changed in accordance with IAS 20.7, effective from 1 January 2012, and an entitlement to a subsidy should be recognized before the conditions are met. However, it must be virtually certain that they will be met and that the subsidy will be granted.

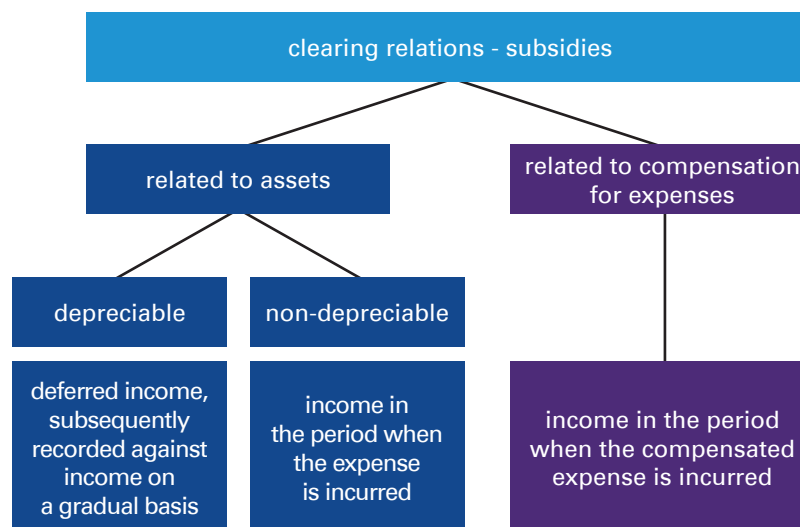
Subsidies related to assets are associated with the purchase, production or other form of acquisition of an asset or technical improvement of a non-current asset, including additional conditions, for example, the placement of an asset and the period during which the asset should be held. An entitlement to a subsidy should be recognized as receivable in account 346 or 347 with a corresponding entry in account 384 – *Deferred income*. This means that it **should not be recognized as income immediately**. The amount recorded in account 384 should be released against income (cleared) only subsequently:

- In the case of **depreciable non-current assets** in account 648 – *Other operating income* on a systematic and rational basis over the useful life of the asset when related expenses are incurred, for example, depreciation and expenses related to the carrying value when the asset is removed from the accounting books. For example, depreciation of assets for which a subsidy has been granted is recognized as an expense, and a proportional part of the subsidy should be recognized as income.

- In the case of **non-depreciable assets** (for example, land), a rational basis other than depreciation of land must be found for the clearing of income, because land is not depreciable. A subsidy for a plot of land is not granted just like that or without purpose, but instead for the construction of a production hall or an entire production plant etc. on that plot of land. Then, the subsidy is recorded against income (account 648) over the useful life of the production hall or plant. Depreciation of the production hall or plant should be recognized as an expense and the proportional part of the subsidy should be recognized as income.
- In the case of **other non-depreciable assets** (for example, inventory), a subsidy should be recorded against income in the accounting period in which the related expense is recognized, for example, consumption of the assets, reduction in own work capitalized related to its sale, the cost of the removal of the asset from the accounting books.

See Article 52a (2) of the Accounting Procedures. A similar procedure is also referred to in IAS 20, meaning so-called **gross** presentation of a subsidy. IAS 20 also allows so-called **net** presentation of a subsidy, where the subsidy is not recognized as deferred income, but the acquisition cost of the asset is reduced by its amount and depreciation of this asset is subsequently reduced. Such net presentation is not allowed by Slovak accounting legislation.

Subsidies related to compensation for expenses serve to compensate for specific expenses related to the activities of an accounting entity. This means that these subsidies are not intended for the acquisition of assets, but instead for the payment of specific costs. An entitlement to a subsidy should be recorded as receivable in account 346 or 347 with a corresponding entry in account 384 – *Deferred income* if the expenses have not yet been incurred (they should be subsequently released against income in the accounting period in which the compensated expenses are recognized) or in account 648 – *Other operating income* or account 668 – *Other financial income* if the expenses have already been incurred. See Article 52a (3) of the Accounting Procedures. A similar procedure is also referred to in IAS 20, meaning so-called **gross** presentation of a subsidy. IAS 20 also allows so-called **net** presentation of a subsidy, where the subsidy is not recognized as income, but the compensated expense is reduced by its amount. Such net presentation is not allowed by Slovak accounting legislation.



If an entitlement to a subsidy arises later than in the accounting period in which the compensated expenses were recognized as expenses, the subsidy should be recognized as income in the accounting period in which the entitlement to the subsidy arises. For example, if expenses are recognized in accounting period 01 and an entitlement to a subsidy arises in accounting period 02, the expenses remain recognized in period 01 and the subsidy will be recognized as income in period 02. The principle of recognizing expenses and income in terms of substance and time will not be observed in this case, but, in our opinion, it cannot be observed, so it is correct in this case. The entitlement to the subsidy arose in period 02, which is why it cannot be recognized earlier.

There is also another provision referring to a subsidy in the form of a loan. **Forgiveness of a loan** should be credited to account 668 – *Other financial income* at the time when the terms for forgiveness of the loan are met, with a corresponding debit entry in the liability account in which the loan is recorded (Article 52a (4) of the Accounting Procedures).

This is similar to what is regulated by IAS 20.10 and 20.10A. A forgivable loan should be presented as a liability until there is reasonable assurance that these terms will be met. From that moment, it should be presented as a *government grant*. The benefit of a loan received at a below-market interest rate should also be treated as a *government grant*.



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