

## THE 60/40 COMPENSATION FOR BULGARIAN EMPLOYERS DURING THE COVID-19 STATE OF EMERGENCY

*as at 09.04.2020 (updated version)*

*In response to the COVID-19 spread in Bulgaria the National Assembly announced state of emergency as from 13 March 2020 (the “**State of Emergency**”).*

*As part of the measures and interventions, incorporated in the new Law on the Measures and Actions during State of Emergency, Announced with a Decision of the National Assembly on 13 March 2020, the Bulgarian Government just finalized the terms and conditions for financial compensation of the Bulgarian employers during the State of Emergency<sup>1</sup>. Below is a short summary of the criteria and the terms and conditions for receiving the so-called “60/40 Compensation”.*

### ➤ ELIGIBILITY

The types of businesses eligible for the compensation are divided in two main categories:

#### 1. Directly Affected Employers

**This means employers who issued an order for stoppage of work of the entire enterprise or part of it as a direct result of the measures imposed by the state during the State of Emergency.**

The list of these affected businesses is attached herein and is exhaustive. It is based on the economic activity of the employer as registered and declared before the authorities.

**NB: Your accountants may confirm under which code of activity your business is registered.**

In order these employers to receive the compensation, they should meet the following criteria:

- (i) have issued a formal order for stoppage of the work of the entire enterprise (e.g. a restaurant) or part of it (e.g. only shops which are located in shopping malls) due to the State of Emergency measures imposed;
- (ii) is local physical or legal entity or a foreign legal entity having business activity in Bulgaria;
- (iii) apply for compensations only for employees insured for the economical activities under Attachment 1 (in case the employer process few different activities);
- (iv) have no outstanding state or local tax or social security obligations under Art. 162, Para 2, Item 1 of the Tax and Social Security Procedural Code (except for such divided in instalments, postponed or secured);
- (v) are not declared insolvent or are not in liquidation or insolvency proceeding;

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<sup>1</sup> Decree No. 55 dated 30.03.2020 of the Council of Ministers for Stipulating the Terms and Conditions for Payment of Compensation to Employers for the Purposes of Keeping the Occupation of the Employee during the State of Emergency Announced with Decision of the National Assembly on 13.03.2020



- (vi) keep the employment of the employees for which the company received compensation at least for a period equal to the period of receiving compensation;
- (vii) do not terminate any employment contracts due to partial closure of the enterprise, staff reduction, decrease of the volume of work or stoppage of the work for more than 15 working days; and
- (viii) have no violations of Art. Art. 61, Para 1, Art. 62, Para 1 or 3, Art. 63, Para 1 or 2, Art. 118, Art. 128, Art. 228, Para 3, Art. 245 and Art. 301 - 305 of the Labor Code or Art. 13, Para 1 of the Labor Migration and Labor Mobility Act within 6 months prior to the issuance of the order for stoppage of the work (as established by a penal decree entered into force or court decision).

## 2. Other Employers

Any other employers may apply for compensation, if they have issued an order for:

- (i) stoppage of the work based on their own decision not due to the measures during the State of Emergency (on the grounds of the new Art. 120в, Para 1 of the Labour Code) or
- (ii) Imposing part time work of all or part of the employees due to the State of Emergency (on the grounds of the new Art. 138a, Para 2 of the LC).

and

meet the following criteria:

- (iii) do not have economic activity in sector A, K, O, P, Q, T and U under the Classification of the Economic Activities (in Bulgarian: *КИД-2008*);

**NB:** Your accountants may confirm under which sector your activities are announced before the authorities.

- (iv) comply with all of the criteria under Item 1 (iv)-(viii) above; and
- (v) **have declared (and may prove) minimum 20% decrease of the income from sales for the month preceding the submission of the application for compensation compared to:**
  - **the same month of 2019 – for companies established before 1<sup>st</sup> of March 2019; and**
  - **the average income for January and February 2020 – for companies established after 1<sup>st</sup> of March 2019.**
- **THE 60/40 COMPENSATION ITSELF**

This represents a temporary compensation – **for the period of the State of Emergency but for not more than three months.**

The compensation is paid by the state to the applying employer for the purposes of keeping occupation of the employees.

**The total due employment remuneration is to be paid by the employer to the employees (no payment from the state to the employees is made).**

If any of the circumstances declared or proved for the purposes of the compensation is not true, the compensation is to be paid back.

If the employer does not pay the rest of the total due remuneration, the compensation is to be paid back.

- **COMPENSATION IS NOT PAID FOR EMPLOYEES:**
  - ✓ Employed after 13.03.2020;
  - ✓ Using sick leave, maternity or parental leave;



- ✓ For which the employer receives financing for remuneration and social security from the state budget, European funds or other public funds.

#### ➤ **AMOUNT OF THE COMPENSATION**

The compensation is in the amount of 60% of the declared **social security income** for January 2020 for each employee falling within the applicable criteria. This means that the compensation is capped to 60% of the maximum social security threshold of BGN 3,000. Thus, if an employee receives higher salary, the compensation will not cover 60% of it in total and the employer still owes the total agreed remuneration.

In case of **part-time work imposed**, the amount of the compensation is payable **pro-rata the not-worked time but for not more than four hours.**

**After a change of the law the state compensation now will include also the social security instalments due by the employer.**

Further, Decree No. 55/30.03.2020 of the Council of Ministers lists all rules for determination of the social security income for January 2020 in case of absence during this month.

#### ➤ **PROCEDURE**

The information for the order, terms, documents, templates and applicable procedure for applying for compensation is available on the web page of the [Employment Agency](#).

**NB: For now, the Labour Office Directorates will accept applications until 21.04.2020.**

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**ATTACHMENT 1**
**LIST OF ACTIVITIES DIRECTLY AFFECTED BY THE STATE OF EMERGENCY MEASURES**
*(unofficial translation from Bulgarian language)*

<b>Code under CEA-2008 (КИД-2008)</b>	<b>NAME OF THE POSITION</b>
47	Retail without retail of motor vehicles and motorcycles*, <u>except for retail</u> : <ul style="list-style-type: none"> <li>- mainly food, beverages or tobacco in non-specialized stores;</li> <li>- of food, beverages and tobacco in specialized stores;</li> <li>- of drugs and other pharmaceutical goods;</li> <li>- of medical and orthopaedic goods;</li> <li>- performed at open-air stalls and markets;</li> <li>- performed outside commercial sites.</li> </ul>
49.3	Other passenger ground transportation
51.1	Passenger air transportation
55	Hotel management
56.1	Activity of restaurants and fast food establishments
56.3	Activity of beverage establishments
59.14	Film projection
79	Travel agency and operator activity; other travel and booking activities
82.30	Congresses and Trade Fair Organization
85.10	Pre-school education (private sector)
90	Artistic and creative activity
91	Other activities in the field of culture
93	Sport and other recreational activities
96.04	Maintaining good physical condition
	Other economic activities – for employers who stopped activity performed on the territory of separate populated territories for which anti-epidemic measures are introduced via order of state authority on the grounds of Art. 63 of the Health Act.

\*With working place in shopping center.