

## SWISS STATE-SCHEME FOR EMPLOYER COMPENSATION AS A RESULT OF REDUCED WORK TIME (RWT) AND OTHER RELATED STATE AIDS IN THE TIME OF COVID-19

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On 16 March 2020, the Swiss federal government introduced stringent measures to protect the population against the spread of COVID-19. Naturally, these protective measures had profound consequences for businesses and their employees, and the Swiss federal government has been quick to respond with several initiatives designed to help businesses survive the COVID-19 crisis.

In this article we consider the various government aid initiatives that are now available to assist companies and employees during the COVID-19 crisis.

### 1 RWT INDEMNITY

#### 1.1 Objective

The [Swiss Federal Act on Unemployment Insurance](#)<sup>1</sup> and its related [Ordinance](#)<sup>2</sup>, promulgated on 25 June 1982 and 31 August 1983 respectively, establish a specific compensation scheme for employers facing a reduced workload due to specific extraordinary circumstances. The rationale for the scheme is to prevent unemployment of employees whose working hours were temporarily reduced due to unavoidable circumstances.

This scheme could not have been more appropriate for the current crisis and, on 20 March 2020, the Swiss federal government decided to better

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<sup>1</sup> Loi fédérale sur l'assurance-chômage obligatoire et l'indemnité en cas d'insolvabilité (Loi sur l'assurance-chômage, LACI), RS 837.0.

<sup>2</sup> Ordonnance sur l'assurance-chômage obligatoire et l'indemnité en cas d'insolvabilité (Ordonnance sur l'assurance-chômage, OACI), RS 837.02.

facilitate access to the compensation scheme by simplifying the qualifying conditions and procedures for affected employers.<sup>3</sup>

## 1.2 Principles

The reduced work time (“RWT”) indemnity is available in the following circumstances:

- i) there has been a **decrease in workload** due to economic factors that are unavoidable;
- ii) the decrease is expected to be temporary and the indemnity is sought with a view to maintaining jobs; and
- iii) at least 10% of the total hours normally worked by all affected employees during each “accounting period”, i.e. one month or four consecutive weeks are reduced.

According to the Swiss federal government, **COVID-19-related losses should be considered temporary and unavoidable**. As a result, it will most likely be sufficient for employers with willing employees to allege – at least initially – that the decrease in workload directly results from the economic impact of the pandemic.

In the event of RWT (which may relate to all or part of regular worktime):

- the employer continues to pay to the affected employees **80% of the loss in earnings** resulting from the RWT **plus** the employer’s share of the AVS/AI/APG/AC<sup>4</sup> contributions for the lost hours; and
- the employer then claims on the state unemployment fund for the salaries (including the employer’s share of AVS/AI/APG/AC contributions) paid in relation to hours not worked. The maximum monthly salary taken into consideration is CHF 12,350 (i.e. CHF 148,200 per year).

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<sup>3</sup> The press release detailing the measures decided by the Swiss federal government to support the companies in their role as employers and the self-employed persons can be found [here](#).

<sup>4</sup> Old age/Invalidity/Loss of earning /Unemployment insurance.

### 1.3 Employees who can benefit from the RWT indemnity

Under the facilitated conditions now applying in Switzerland as a result of COVID-19, employers may seek RWT indemnification in relation to employees:

- who are subject to an obligation to contribute to unemployment insurance (“assurance-chômage”) or have at least completed their compulsory education (minimum school years) and have not yet reached the minimum age for social security contributions (apprentices thus qualify too);
- who have accepted the RWT;<sup>5</sup> and
- whose employment relationship has not been terminated (by either party).

However, employers may not seek RWT indemnification in relation to employees:

- whose employment relationship has been terminated;
- who have not accepted RWT;
- who are not recording working hours and whose reduced working hours can therefore not be assessed or whose working hours cannot be sufficiently controlled (e.g. on-call work).

### 1.4 How to apply for RWT indemnity?

To be eligible for RWT compensation, employers must **apply to the cantonal authority having jurisdiction** at the relevant place of business. The application comprises (i) a notice form for RWT,<sup>6</sup> (ii) an accompanying letter answering specific questions raised in the form and (iii) the requested supporting documents.

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<sup>5</sup> Employees refusing to participate must be paid their full salary, their risk being that the employer may in such case opt to terminate their employment.

<sup>6</sup> The notice form for RWT can be found [here](#), the same form being used by the employment offices in Geneva and Vaud. The forms for other cantonal employment offices are available upon request.

In response to COVID-19, most cantonal employment offices have introduced a **fast-track procedure**: employers must still indicate in the original form the number of employees impacted by the measure and the extent of the decrease in workload, but no longer a requirement to submit information regarding their order book and the reasons for claiming compensation.<sup>7</sup>

Once completed, applications must be sent to the cantonal employment office.<sup>8</sup>

Once the entitlement to the RWT indemnity has been granted by the relevant cantonal employment office, employers must claim compensation by filing corresponding monthly statements with the unemployment fund to which they are affiliated.

## 2 DEFFERAL OF PAYMENT OF AVS/AI/APG/AC CONTRIBUTIONS

Companies impacted by the current exceptional economic situation may request to temporarily defer the payment of AVS/AI/APG/AC contributions.<sup>9</sup> If this deferral is approved, no default interest is due. Companies may also request the adjustment of the usual amount of advance payments in respect of AVS/AI/APG/AC contributions in the event of a significant decrease in their total payroll.

Requests for deferral of payments and reduction of advance payments are evaluated by the AVS compensation funds.

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<sup>7</sup> The Geneva employment office requires employers to answer only to questions 9a, 10b, 11a and 11c in replacement to questions 9 to 12. The Vaud employment office issued an additional simplified form in replacement to questions 9 to 12, which can be found [here](#).

<sup>8</sup> For **Geneva** (Office cantonal de l'emploi, Service juridique, rue des Gares 16, Case postale 2660, 1211 Genève 2); for **Vaud** (Service de l'emploi, Instance juridique chômage, rue Marterey 5, 1014 Lausanne); for **Zurich** (Amt für Wirtschaft und Arbeit, Arbeitslosenversicherung, Kurzarbeit, Stampfenbachstrasse 32, 8090 Zürich); for **Bern** (Amt für Arbeitslosenversicherung, Rechtsdienst, Lagerhausweg 10, 3018 Bern); for **Basel** (Kantonale Amtsstelle für Arbeitslosenversicherung, Hochstrasse 37, 4002 Basel). Addresses for other cantons are available upon request.

<sup>9</sup> [Art. 34b and 41bis \(Ibis\) Règlement sur l'assurance-vieillesse et survivants \(RAVS\), RS 831.101.](#)

### **3 GUARANTEED MINIMUM CASH FLOWS TO SMALL AND MEDIUM COMPANIES**

Due to the extraordinary current economic situation, many companies are facing liquidity issues notwithstanding the availability of the RWT indemnity. The Swiss federal government is establishing a guarantee program that will enable affected small and medium companies (SMEs) to obtain bridge loans<sup>10</sup> of up to 10% of their annual turnover (subject to a maximum amount of CHF 20 million), as follows:

- loans up to CHF 500,000 should be advanced (at nil interest) immediately by the banks, without any credit or other review, and the repayment of those loans will be fully covered by a federal guarantee;
- loans in excess of CHF 500,000 should be advanced (at 0.5% p.a. interest) by the banks following a brief review and approval process, and the repayment of such loans will be covered as to 85% by a federal guarantee.

The Swiss Parliament has granted a 20 billion credit facility to the Swiss federal government to cover this programme. The Swiss federal government issued an ordinance providing more information on how to apply for such loans on 25 March 2020.<sup>11</sup>

### **4 EXTENSION OF THE SCOPE OF THE DAILY ALLOWANCES IN CASE OF LOSS OF EARNINGS**

Employees or self-employed persons who suffer a loss of earnings due to the measures against the spread of the COVID-19 may receive daily allowances from the APG<sup>12</sup> provided that:

- they are subject to AVS; and

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<sup>10</sup> See also our blog on Swiss federal COVID-19 related state aid programs [here](#).

<sup>11</sup> [Ordonnance sur l'octroi de crédits et de cautionnements solidaires à la suite du coronavirus, RS 951.261.](#)

<sup>12</sup> [Ordonnance sur les mesures en cas de pertes de gain en lien avec le coronavirus \(COVID-19\), RS 830.31.](#)

- they are not already receiving compensation or insurance benefits through another type of insurance and, for employees, their salary is no longer paid by their employer.

Compensation under these new measures is provided in the following cases:

- interruption of work to take care of one's children up to the age of 12 due to the closure of day-care and schools (except during school holidays); or
- quarantine of the concerned person ordered by a doctor.

In addition, self-employed persons may also be entitled to compensation of their loss of earnings due to a State decision ordering them to close their independently managed business to the public.

The daily allowances correspond to 80% of the salary/average income (maximum CHF 196 per day). They are paid after a waiting period of 4 days in case of interruption of work to take care of one's children. There is no waiting period in case of quarantine, or where an independently managed business is ordered to close its doors to the public.

The number of daily allowances is limited to 10 days in case of quarantine. For the self-employed, the number of daily allowances is limited to 30 days in case of interruption of work to take care of their children.

Applications for daily allowances for loss of earnings are evaluated by the AVS compensation funds.

## 5 CONCLUSION

The Swiss federal government's response to the COVID-19 crisis has been decisive and far-reaching. The various measures announced to assist businesses at this time will become more certain as the volume of claims made under each programme increases and refinements are made to the claims process.

We will continue to follow developments and to update our analysis as appropriate.

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