



HR Legal Alert

6th April 2020

Weinhold Legal

Running Antivirus program

As of 6 April 2020, employers may claim a contribution under the Antivirus program for wages/salary compensation paid to their employees under the Antivirus program. Applications (including subsequent billing of the required wage/salary compensation for individual months) are completed via the web application of the Labour Office of the Czech Republic.

The application will generate an Agreement on the provision of a contribution from the targeted Antivirus program, whose conclusion is a necessary condition for drawing the state contribution.

In this context, we would like to draw your attention in particular to the following:

- ▶ The state contributions shall be provided on the basis of the employer's actual wage costs for wage/salary compensation (paid) to employees (including employer's social and health insurance contributions), i.e. the full amount, even if the employer does not reduce the wage/salary compensation provided to minimum (for example, in case of partial unemployment, the employer will pay 100% compensation);
- ▶ The state contribution may be used only for wage/salary compensation provided to employees who are employed by the employer on the day of filing their statement of accounts and who have not been dismissed by the employer, with the exception of dismissal for breach of duties by the employee. This means that the contribution cannot be applied to employees whose employment has been terminated in the meantime by expiry of the agreed period for fixed-term employment, death or other reasons, or to employees to whom the employer has served notice of termination of employment mainly for organizational or health reasons (even if the employment still exists);
- ▶ The state contribution cannot be paid for wage/salary compensation provided to employees who are employed by the employer only for one of the agreements on work performed outside the employment relationship;
- ▶ The state contribution may be drawn only for wage/salary compensation provided to employees participating in sickness and pension insurance under Czech legislation;



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- ▶ The Agreement on the provision of a targeted Antivirus program includes a settlement under which the parties agree that by concluding (note that not only by paying under) this agreement, all claims of the employer against the Czech Republic for damages caused by measures and crisis resolutions of the Government of the Czech Republic in connection with wage/salary compensation provided at the time for which the employer is entitled to the contribution are settled. The Settlement Agreement, as conceived, raises a number of uncertainties and legal doubts, but its purpose is that the employer will not require the State to pay an additional payment of wage/salary compensation (i.e. 20% under regime A and 40% under regime B);
- ▶ The employer must be able to prove the eligibility of the contribution during the follow-up control and is obliged to keep all documents related to the granting of the contribution for 10 years (i.e. documents proving the fulfillment of the program conditions, e.g. decrease of sales, as a condition for application of partial unemployment);
- ▶ Between 12 March 2020 and 30 April 2020 the employer must continue to follow the guidelines and recommendations of the Ministry of Health and Public Health Authorities except cases where such guidelines cannot be observed for objective reasons (e.g. keeping a distance of 2 m, wearing masks etc.).
- ▶ Please note that if the employer is wrongly granted a contribution, it must return it within the specified time limit, otherwise it will be obliged to pay a penalty for breach of budgetary discipline in the amount of the total of the unauthorized contribution .

In case of your interest, we are ready to assist you in determining the right regime for the Antivirus contribution, as well as in completing the application and the subsequent billing.

The information contained in this bulletin is presented to the best of our knowledge and belief at the time of going to press. However, specific information related to the topics covered in this bulletin should be consulted before any decision is made. At the same time, the information contained in this bulletin should not be construed as an exhaustive description of the relevant issues and any possible consequences. Furthermore, it should be noted that there are various legal opinions on some of the issues raised in this bulletin due to the ambiguity of the relevant provisions. It cannot therefore be ruled out that in the future an interpretation other than the one we give us will prevail.

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