



Legal Alert

22 May 2020

Weinhold Legal

Program – “COVID – Rent”

The current state of the program

The Ministry of Industry and Trade, in response to the negative consequences caused by the restrictions resulting from the measures against the coronavirus pandemic on businesses, has prepared a subsidy scheme called "COVID - Rent", the aim of which is to mitigate these consequences by supporting businesses who are also tenants under lease agreements.

The scheme was discussed by the government on 18 May 2020. The European Commission must now be notified before it is issued. A call for applications for support should be published immediately after the notification. Support should be provided from its publication until 31 December 2020.

However, the Ministry of Industry and Trade has reserved the right to change the conditions for the provision of subsidies and to publish the changes in question on its website. We therefore recommend a continuous check of the conditions.

Support, its subject and conditions

Basic situation

The support is intended to cover 50 % of the monthly rent for the second quarter of 2020 (i.e. for April, May and June) if the following conditions are met. However, if the lease or sublease agreement expires during this period, the subsidy could be granted for the actual duration of the lease.

Both natural persons and legal entities can apply for the provision of support if they run a business activity in an establishment, on the basis of *Act No. 455/1991 Coll., On Trade*

Licensing (Trade Licensing Act), or another legal regulation, and are using this establishment on the basis of a lease, or sublease agreement, if that was concluded before 12 March 2020.

A further condition is that the applicant had to have been prohibited from selling goods or providing services in this establishment by extraordinary measures against the coronavirus pandemic for a period of time which forms at least part of the period from 13 March to 30 June 2020.

In addition, the applicant must not be in arrears with the payment of his/her own obligations due before 12 March 2020 towards certain institutions (e.g. the health insurance company, the tax office or the Czech Social Security Administration) and must not be a person related to the landlord (i.e. i.a. a close person, a controlling person or a controlled person).

The landlord must then provide a discount of 30% of the rent, which can be done on the basis of an agreement between the tenant and the landlord, or by an amendment to the lease or sublease agreement.

On the other hand, the tenant must prove payment of 50% of the monthly rent for the period in question in accordance with the lease, or sublease agreement. If rent payments have been deferred in accordance with the agreement between the tenant and the landlord, or in accordance with *Act No. 210/2020 Coll., On certain measures to mitigate the effects of the SARS CoV-2 coronavirus epidemic on tenants of business premises*, then it will be necessary to pay half of the rent at least one day before the application for the subsidy is submitted.



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Landlords from the public sector

Special conditions are set for the case when there is an establishment in a real estate, which is part of the property of the Czech Republic and the landlord therefore must comply with *Act No. 219/2000 Coll., On the property of the Czech Republic and its appearance in legal relations*.

The differences lie in the fact that in this case the support provided under the scheme is 80% of the rent, the landlord does not provide a 30% discount on the rent and the tenant has to pay 80% of the monthly rent for the period in question.

Application for support and its evaluation

In relation to one establishment, a single application for the provision of support may be submitted, if it is not an establishment shared by several tenants.

The application must be submitted in electronic form and contain all the prescribed requirements.

It must include the following declarations:

- ▶ A declaration of the tenant, in which he/she declares, among other things, that he/she provides true information, it has not been decided on his/her bankruptcy, is not in liquidation, etc. It is worth noting in particular the fact that it is also necessary for the tenant to waive further compensation from the state regarding the rent for the period from March to June 2020.
- ▶ A declaration of the landlord, which confirms the existence of a lease or sublease agreement and the fact that he/she is not a person related to the tenant;

It is also necessary to enclose the following documents proving the rent payments:

- ▶ Proof of rent payment for the previous period (in the initial situation for January and February 2020);
- ▶ Proof of payment of the part of the rent in question for the second quarter of 2020, for which a subsidy is required;

The applicant should pay particular attention to the obligation to provide the following documents:

- ▶ A signed draft of the agreement on the settlement of all claims of the applicant against the Czech Republic in respect of damages arising from extraordinary measures against the coronavirus pandemic;
- ▶ Proof of payment of VAT from 70% (in the case of landlords from the public sector 80%) of the rent for the period from 1 April 2020 to the date of submission of the application, if it is already due.

The application will then be evaluated by the Ministry of Industry and Trade, and submission of additional documentation may be required. If the provision of support is approved, a Decision on the provision of the subsidy will be issued. However, there is no legal right for its provision.

Provision of the support

The payment of rent will be considered as eligible expenditure for the provision of support, but in the case where the rent differs in individual months (e.g. on the basis of turnover) only the basic rent (in this case e.g. without the turnover component).

These expenses must not, on average, per one-month rent exceed the amount of rent paid by the tenant before 12 March 2020, in order to avoid an artificial increase of the amount of



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rent payments in order to obtain a higher subsidy. In addition, where support is paid, it will not be possible to gain it for the payment of VAT.

The level of support calculated from the amount of rent without the VAT rate is then limited to the amount of CZK 10,000,000.

After its provision, the beneficiary will be obliged to keep the related documentation for a period of 10 years and at the same time to allow its control.

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. The information contained in this bulletin should not be construed as an exhaustive description of the relevant issues and any possible consequences, and should not be fully relied on in any decision-making processes or treated as a substitute for specific legal advice, which would be relevant to particular circumstances. Neither Weinhold Legal, v.o.s. advokátní kancelář nor any individual lawyer listed as an author of the information accepts any responsibility for any detriment which may arise from reliance on information published here. Furthermore, it should be noted that there may be various legal opinions on some of the issues raised in this bulletin due to the ambiguity of the relevant provisions and an interpretation other than the one we give us may prevail in the future.

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