

COMPENSATION BONUS FOR SMALL AND FAMILY COMPANIES (LIMITED LIABILITY COMPANIES - S.R.O. IN CZECH)



20 May 2020, 18:00 (will be continuously updated)

The Chamber of Deputies supported the draft amendment to Act No. 159/2020 Coll., On the Compensation Bonus (hereinafter referred to as the “Act”). If the draft is approved, the Financial Administration will start to pay a compensation bonus for partners of small companies. The compensation bonus is 500 CZK per day and currently covers the period from 12 March to 8 June 2020. Applicants can thus receive up to 44 500 CZK.

Currently, we await the approval of amendments, or overruling the vote of the Senate, and the signature of the President.

The programme, like the “Pětadvacítka” for the self-employed, will be administered and paid by the Financial Administration, which will begin accepting applications after the amendment enters into force.

The final scheme of the bonus may still change, but for the time being, the following conditions and preconditions for the payment of the bonus apply to the applicants:

- a. the company’s activity is limited, or its sales are reduced due to coronavirus;
- b. there is a maximum of 2 partners in the company (more partners only in the case of a family company);
- c. the applicant was a partner of the company as of 12 March 2020;
- d. the applicant’s share may not be represented by a common certificate;
- e. in the previous year, the company achieved a turnover of at least 180 000 CZK (for new companies, there has to be a presumption of achieving such a turnover in 2020);
- f. the applicant may not participate in health insurance in the given company (except for

- g. the applicant has not received support from the Antivirus or “Pětadvacítka” programmes;
 - h. the applicant will receive the contribution only once if he is a partner in more than one company,
 - i. the company is not bankrupt, in liquidation nor an unreliable VAT payer,
 - j. the company is a tax resident of the Czech Republic, the European Union or the European Economic Area.
- (all according to the proposal of Sec. 2a and Sec. 2b of the amendment to the Act)

Activity limitation or sales reduction (referring to letter a.):

Limitations or reductions include in particular:

1. the necessity to close the applicant's company premises or restrict its operation;
2. quarantine of the applicant or his employees;
3. childcare in the case of the applicant or an obstacle to work consisting in the childcare in the case employees;
4. reduction in the demand for the products, services, or other outputs of self-employment of the applicant; or
5. restriction or termination of supplies or other outputs of self-employment of the applicant.

Family company (referring to letter b.):

Family company means a kinship in the direct line, or relatives: a sibling, a spouse, or a registered partner (according to the Registered Partnership Act), among the partners.

Relationship between the compensation bonus and the Antivirus programme (referring to letter g.):

In the relevant provisions of the amendment to the Act reads as follows:

„Section 3...

(3) The subject of the compensation bonus is not entitled to... c) compensation bonus according to Section 2a (author's note: bonus for small and family companies) for the calendar day for which the limited liability company, in which he is a partner, received support provided to employers in connection with a health threat or emergency measures pursuant to Section 1. (author's note: meaning the Antivirus programme)"

In our opinion, it is necessary to interpret this provision as meaning that the claim to the bonus does not arise for the applicant (in the case of employment in the company while drawing support from the Antivirus programme for himself as an employee) only in relation to this company. Therefore, if the partner is an employee of another company, in our opinion it is possible to draw the compensation bonus and support from the Antivirus programme.

In this context, we asked the Ministry of Finance for its interpretation, which, however, contradicted our interpretation and insisted on drawing only one support (i.e. either the compensation bonus or the support from the Antivirus programme) per person.

Relationship between the bonus for small companies and "Pětadvacítka" (referring to letter g.):

An applicant who already draws the bonus for the self-employed (from the "Pětadvacítka" programme) will not be able to draw the compensation bonus (according to the Sec. 3 par. 4 letter a) of the amendment to the Act).

Application

The application for the bonus should be simple, as in the case of the self-employed. When the programme is approved, it will be possible to find a form on the Financial Administration website (in which the applicant fills in a bank account in Czech currency and company identification) and an affidavit, all to complete, sign and then send

to the tax office by data box, e-mail, post or personal delivery.

The amount of the bonus is 500 CZK per calendar day of the bonus period, of which there are three: from 12 March to 30 April 2020, then from 1 May to 8 June 2020 and from 9 June to 31 August 2020. The first two bonus periods have already been approved (see above). The third bonus period can be ordered by a government regulation, but only for days when the crisis measures persist (according to Sec. 5 of the Act).

The application can be submitted to the tax office no later than 60 days after the end of the bonus period:

1. Period end: 30 April 2020 (apply no later than 29 June 2020)

2. Period end: June 8, 2020 (apply no later than 7 August 2020)

Eventually

3. Period end: 31 August 2020 (apply no later than 30 October 2020)

Questions and Answers:

Can each partner apply for the bonus individually?

If the conditions of the programme are met, each partner has a separate right to be provided with the compensation bonus.

Can a partner, who draws childcare allowance, apply for the bonus?


The text of the Act does not create an obstacle between drawing a childcare allowance and being provided with the compensation bonus. Therefore, a partner who draws childcare allowance can apply for the compensation bonus.

When does the claim arise?

The claim to the bonus arises by signing an affidavit saying that in each calendar month for which the bonus is requested the applicant's activities could not be performed at the usual level due to coronavirus spread or emergency measures (according to Sec. 7 par. 1 of the Act).

Tax aspects

The programme will be administered by the locally competent tax office, as a "compensation



bonus", which will be administered as a tax under the Tax Code (by assessing the compensation bonus, a so-called refundable overpayment will be created and paid to the applicant)

Enforcement proceedings and execution by a bailiff

The compensation bonus is not subject to enforcement or execution. The amendment to the Act regulates the possibility for banks to be able to disburse funds on the basis of their client's instructions, regardless of whether enforcement or execution is conducted against him (according to the draft Sec. 9 par. 5 of the amendment to the Act).

Lukáš Regec, Adam Hussein, Roman Kytlica, Jindřich Novák

lukas.regec@smatlak.cz, roman.kytlica@bdo.cz, jindrich.novak@bdo.cz