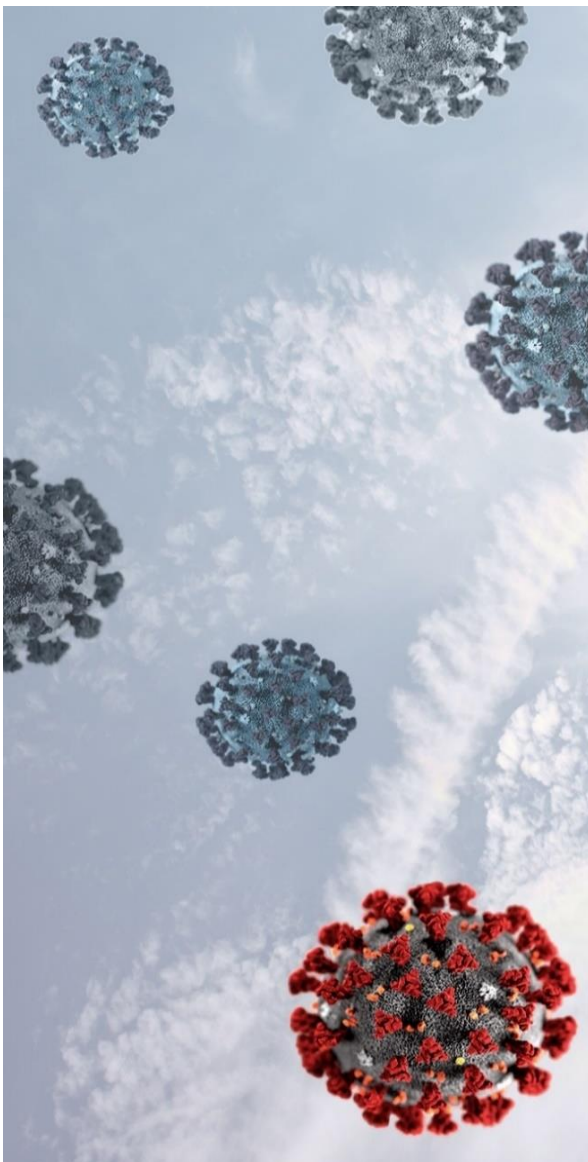

COVID-19: Social security benefits for companies

This Legal Flash offers a concise summary of the three social security benefits for companies adopted on an exceptional basis since the declaration of the state of emergency: (i) exemption on contributions, (ii) moratorium on contributions, and (iii) deferral of social security debts. Section IV includes a table summarizing these benefits.

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I. EXEMPTION ON SOCIAL SECURITY CONTRIBUTIONS OF EMPLOYEES AFFECTED BY AN ERTE ON THE GROUNDS OF *FORCE MAJEURE* OWING TO COVID-19 (ARTICLE 24 RDL 8/2020): AVOIDING PAYMENT

1. Scope of the exemption on social security contributions

- > Companies that have carried out an ERTE on the grounds of *force majeure* owing to COVID-19 can apply a 75% or 100% exemption from employer contributions to the social security and joint collection items with regard to affected employees.
- > The exemption will be 100% of the employer contributions for companies that had fewer than 50 employees on February 29, 2020, and 75% for all other companies.
- > The company must request the exemption by introducing the appropriate codes in the RED System. The exemption will apply for as long as the contracts are suspended under an ERTE on the grounds of *force majeure*.

2. Commitment to maintain jobs

- > To benefit from the exemption on contributions, companies must commit to maintaining jobs for six months from the date the activity is resumed (Sixth Additional Provision of RDL 8/2020).
- > Therefore, if during that six-month period a company terminates contracts on objective grounds or carries out any unjustified disciplinary dismissals of employees affected by an ERTE on the grounds of *force majeure*, that company will be obliged to pay any unpaid contributions plus a 20% surcharge.

3. Incompatible situations

- > The exemption on contributions is incompatible with the moratorium provided under article 34 of RDL 11/2020.

II. MORATORIUM ON SOCIAL SECURITY CONTRIBUTIONS ACCRUED IN APRIL, MAY AND JUNE 2020 (ARTICLE 34 RDL 11/2020): EXTENDED DEADLINES TO PAY CONTRIBUTIONS WITHOUT A PENALTY BEING IMPOSED

1. Scope of the moratorium on social security contributions

- > This benefit is applicable to companies carrying out an activity that has not been suspended due the declaration of the state of emergency under RD 463/2020, and that is included in any of the following CNAE-2009 codes (national classification of economic activities):

119 (*Growing of other non-perennial crops*); **129** (*Growing of other perennial crops*); **1812** (*Other printing and graphic arts activities*); **2512** (*Manufacture of metal carpentry*); **4322** (*Plumbing, installation of heating and air conditioning systems*); **4332** (*Carpentry installation*); **4711** (*Retail trade in non-specialized establishments, predominantly in food products, beverages and tobacco*); **4719** (*Other retail trade in non-specialized establishments*); **4724** (*Retail trade of bread and bakery, confectionery and pastry products in specialized establishments*); **7311** (*Advertising agencies*); **8623** (*Dental activities*); **9602** (*Hairdressing and other beauty treatments*)

- > The moratorium will last for six months, with no interest accruing, and is applicable to employer contributions to the social security and joint collection items accrued in April, May and June 2020.
- > Companies must specifically request the moratorium for each individual contribution account number within the first 10 calendar days of May (for contributions corresponding to April), June (for contributions corresponding to May)



and July (for contributions corresponding to June).

2. Situations that are incompatible with the moratorium on social security contributions

- > The moratorium is incompatible with:
 - (i) exemption from paying social security contributions in the case of an ERTE on the grounds of *force majeure* owing to COVID-19, and
 - (ii) the deferral of social security debts provided under article 35 RDL 11/2020.

III. DEFERRED PAYMENT OF SOCIAL SECURITY DEBTS FOR WHICH THE OBLIGATORY PAYMENT PERIOD IS BETWEEN APRIL AND JUNE 2020 (ARTICLE 35 RDL 11/2020): POSTPONED PAYMENTS AT A LOWER INTEREST RATE

1. Scope of deferred payment of social security debts

- > Companies that do not benefit from other deferred social security payments can request the deferral of social security debts that should be paid in April, May and June 2020, with an applicable 0.5% interest rate on the deferred payments (instead of the default interest in force, set at 3.75%). These companies must provide security

(e.g., a guarantee) for debts exceeding certain amounts.

- > Specifically, the total amount of debt for which it is not necessary to provide security to request deferred payment has increased from €30,000 to €150,000, and from €90,000 to €250,000 when, although the deferrable debt is lower than €250,000, an agreement is reached to pay at least one third of the total amount within 10 days from the date the deferral is granted.
- > Companies must request the deferral within the first 10 calendar days of April (for contributions corresponding to March), May (for contributions corresponding to April), and June (for contributions corresponding to May).

2. Situations that are incompatible with the deferred payment of social security debts

- > Together with the requirement of not having any other deferred social security payments in force, this measure is incompatible with the moratorium on social security contributions provided under article 34 of RDL 11/2020.



TABLE SUMMARIZING THE SOCIAL SECURITY BENEFITS AVAILABLE TO COMPANIES DURING THE STATE OF EMERGENCY RESULTING FROM COVID-19

SOCIAL SECURITY BENEFIT	CONTRIBUTIONS THE BENEFIT APPLIES TO	REQUEST	INCOMPATIBLE SITUATIONS
Exemption of contributions during the ERTE on the grounds of <i>force majeure</i> owing to COVID-19 (art. 24 RDL 8/2020)	Employer contributions and joint collection items during the ERTE on the grounds of <i>force majeure</i> owing to COVID-19 (during the state of emergency)	Specific request to the General Treasury of Social Security + Commitment to safeguard jobs	<ul style="list-style-type: none"> > Unjustified disciplinary or objective dismissal¹ within six months from the date activity is resumed > Moratorium on social security contributions (art. 34 RDL 11/2020)
Six-month interest-free moratorium on social security contributions (art. 34 RDL 11/2020)	Employer contributions and joint collection items <u>accrued</u> in April, May and June 2020	Specific request for each contribution account number within the first 10 calendar days of the payment period	<ul style="list-style-type: none"> > Companies whose activity has been suspended due to the declaration of the state of emergency > Companies not included in specific sectors² > Exemption from paying contributions in the case of an ERTE on the grounds of <i>force majeure</i> owing to COVID-19 > Deferral of social security debts provided under article 35 RDL 11/2020
Deferral of social security debts at a 0.5% interest rate (art. 35 RDL 11/2020)	Social security debts for which the <u>obligatory payment period</u> is between April and June 2020	Specific request within the first 10 calendar days of the payment period	<ul style="list-style-type: none"> > Having any other deferred social security payments > Moratorium on social security contributions provided under article 34 RDL 11/2020

¹ Among other types of employment terminations that are also incompatible with this exemption.

² The moratorium is only applicable to companies carrying out any of the following activities (CNAE-2009): 119 (Growing of other non-perennial crops); 129 (Growing of other perennial crops); 1812 (Other printing and graphic arts activities); 2512 (Manufacture of metal carpentry); 4322 (Plumbing, installation of heating and air conditioning systems); 4332 (Carpentry installation); 4711 (Retail trade in non-specialized establishments, predominantly in food products, beverages and tobacco); 4719 (Other retail trade in non-specialized establishments); 4724 (Retail trade of bread and bakery, confectionery and pastry products in specialized establishments); 7311 (Advertising agencies); 8623 (Dental activities); 9602 (Hairdressing and other beauty treatments)



CUATRECASAS TASK FORCE

At Cuatrecasas, we are working non-stop to provide our clients with legal advice on everything related to the COVID-19 crisis, and we are available to give immediate answers in all legal matters.

Our Knowledge and Innovation Team continues to manage our collective knowledge in the most efficient way during these uncertain times to provide top-quality, innovative legal advice to our clients in all matters related to this crisis.

For more details, contact Cuatrecasas or visit our [website](#).

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