

**THE GOVERNMENT LAUNCHES 11.000 MILLION EURO AID PACKAGE FOR COMPANIES IN CRISIS
CAUSED BY THE PANDEMIC**

Finally, the Spanish government has officially launched an aids' package to directly and indirectly help the companies that have suffered the most during the last year. Such aids are addressed to Spanish companies that have suffered the most during the last year, including the ones that are totally or partially participated by foreign entities or the foreign companies that have a permanent establishment in Spanish territory.

The **Royal Decree-Law 5/2021, of March 12**, on extraordinary measures to support business solvency in response to the COVID-19 pandemic ("RDL"), published in the Spanish BOE on March 13, contains three different blocks of public aid proposed by the government, as well as other legal measures intended to help companies in crisis.

These long-awaited aids come to give air to those companies that have suffered during this fateful last year, but do not protect those that were in a complicated situation before the pandemic, and this has worsened their balance sheets considerably. Likewise, in the case of direct aid, a limitation of eligible sectors is established. Although this list includes about 100 sectors, there will be many companies that will not be able to access them because they are not included in the closed list.

The general conditions for the granting of any of the aids set forth in this RDL and applicable to all the companies that wish to access them, are as follows:

- Companies with registered office in Spain, including those companies wholly or partially owned by foreign companies and non-resident entities operating in Spain through a permanent establishment, as long as they are not located in a tax haven.
- That the company has not started any insolvency proceeding nor has ceased its activity at the time of the application.
- That the company has complied with the payments regarding tax and social security obligations.
- That the company does not distribute dividends or increase the salary of their management team for a period of two years.
- That the company maintains its activity until June 2022.

It is important to take into consideration that the companies that have benefited from these aids without complying with the general and specific requirements defined in the RDL, shall be obliged to return the amounts and may be liable for damages, expenses and other liabilities that may be applicable.

Below, we summarize the three blocks of aids, the conditions to be met by companies willing to access them and other measures adopted by the government due to the lengthening of the health crisis that we are all suffering.

A) Non-reimbursable direct aids (€ 7,000 million)

The different Autonomous Regions will manage the distribution of this total amount, allocating € 2,000 million to the Balearic and Canary Islands, as they have been particularly affected due to the fall in tourism, and € 5,000 million Euros to the rest of the Autonomous Regions of Spain. The allocation of the amounts for each autonomous region will be made based on the impact of the pandemic on their wealth, total unemployment and youth unemployment.

The autonomous regions will now articulate the mechanism and platform for companies and self-employed workers to be able to apply for these aids. In addition to the general conditions set out above, the requirements that companies must meet to access these direct aids are:

- a) That its activity falls within the specific sectors referenced in Annex I of the RDL, which includes almost 100 sectors especially affected by the pandemic, among them the land transportation and aeronautical sector, the hotel and catering industry, sectors with access to the extended ERTE of Royal Decree 2/2021, the wholesale and retail trade and others especially damaged by Covid-19.
- b) That its annual turnover for 2020 has fallen by at least 30% with respect to the previous year 2019.
- c) That has not obtained a negative net result in 2019.

In the case of consolidated groups of companies, only the group and not each of the companies that conform the group should be considered as the recipient. Therefore, to determine the eligibility criteria, the total turnover sum of all the companies that conform the group must be taken into account.

The maximum period for the granting of these aids is expires the December 31, 2021 and the amount of the aids granted to each company cannot be less than 4.000 euros or more than 200.000 euros. The aids will cover:

- In the case of companies with up to 10 employees, the 40% of the drop in turnover in 2020 that exceeds the minimum 30% mentioned above.
- In the case of companies with more than 10 employees, 20% of the drop in turnover in 2020 that exceeds the minimum 30% mentioned above.

The regulation establishes that these aids must be used for the payment of debts incurred by companies since the beginning of the pandemic in Spain (March 2020), such as the payment of suppliers and other financial and non-financial creditors, as well as fixed costs incurred for contracts or business prior to the entry into force of the RDL. Likewise, companies will be able to attend calls made by different Autonomous Regions.

B) Aids for the restructuring of financial debt (€ 3,000 million)

The measures of this block are applied to companies that have subscribed financing operations with public guarantee, with financial entities since March 17, 2020. The conditions and requirements for accessing these measures will be established by an Agreement of the Spanish Cabinet of Ministers, which will establish a Code of Good Practice with the eligibility bases for companies that may apply for these debt renegotiation measures with banks.

In order to be a beneficiary of these measures, the company must have previously requested to the financial entities the formalization of the extension of terms and grace periods with respect to the ICO loans, included in the Royal Decree 34/2020, of November 17.

Subject to the debt renegotiation agreement between the financial entity and the company, the measures that may be agreed are related to the extension of the maturity term of the loans and conversion of such loans into participating loans.

Furthermore, the measures with the greatest impact are focused on direct transfers to companies and self-employed persons that comply with the requirements of the Code of Good Practices to reduce the principal outstanding of the loans. These transfers by the State will be made as part of the debt renegotiation agreements reached between companies and financial entities and will be paid directly through the entity granting the loan, which must charge it to reduce the outstanding principal of the operation mentioned.

C) Fund for the recapitalization of medium-sized companies (€ 1,000 million)

As a final aid, the RDL states the creation of a fund with the remaining € 1,000 million to be managed by COFIDES, a public-private company. The objective of this fund is to strengthen the balance sheet of companies that have been particularly affected by the pandemic but were viable in December 2019.

For the granting of these aids, the profitability and sustainable development of the companies will be evaluated, as well as the access to the debt restructuring measures referred to in point (B) above. The aids may be in the form of ordinary loans, participating loans, or equity participation in the capital of companies in difficulties caused by Covid-19. The Cabinet of Ministers will establish the detailed regulations for such fund.

Insolvency measures

The RDL also establishes important measures in a fourth dimension: the numerous companies that are forced to file for insolvency proceedings.

In this regard, the current moratorium on the filing for the declaration of insolvency proceedings is extended once again (the third time) and until December 31, 2021, as well as the non-admission of applications for necessary insolvency proceedings filed by the creditors of the insolvent company.

Other measures

Moreover, the deadline for delaying the payment of tax debts is extended to four months, without late payment interest, for those companies with a volume of transactions not exceeding € 6 million in 2020 and whose filing deadline ends in April 2021.

Finally, it is worth highlighting that the RDL also establishes the possibility for SA corporations to hold fully telematic meetings until December 31, 2021, even if their bylaws do not provide for such possibility and as always as they guarantee some aspects such as the identities of the shareholders, the viability of communications, etc. This measure will specially help the companies with foreign shareholders that suffer difficulties to travel and participate actively in the business decision-making.

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