

# Emergency Bridging Measure to Preserve Employment

## Further details regarding the temporary Emergency Bridging Measure to Preserve Employment (NOW)

*The conditions of the NOW have meanwhile been published. Companies that meet the conditions for the NOW subsidy can expect to receive an advance payment within two to four weeks after the submission of an application. The UWV endeavours to arrange that companies can submit an NOW subsidy application as from 6 April. In this whitepaper, we have listed the answers to the most prevalent questions that have arisen among many employers (until now).*

### Goal and main features of the NOW

The NOW provides support to employers who are confronted with a turnover loss of at least 20% in a continuous period of 3 months. These employers can receive a subsidy that is aimed at making it possible for them to keep their employees employed as much as possible for the numbers of hours that they worked before the serious turnover loss occurred.

The NOW initially provides a subsidy of at most 90% of the wage sum over the three-month period from 1 March up to and including 31 May 2020. The height of the subsidy relates to the percentage of the turnover loss. The 90% percentage of the total wage sum is a maximum percentage that will be paid out if the turnover loss is 100%. If the turnover loss is lower, the subsidy will also be proportionately lower.

For the time being, the NOW will apply for three months, but the option to extend the NOW by another three months has been left open. A decision will be made regarding that before 1 June 2020.

### Conditions for eligibility for subsidy under the NOW

#### Turnover loss

The first condition is that the employer faces a turnover loss of at least 20%. An important question among many employers is to which period this turnover loss applies, and how this turnover loss should be calculated. The NOW as it has been published today answers these questions.

The turnover loss of at least 20% has to occur in a continuous period of three calendar months, the starting date of which is 1 March, 1 April or 1 May 2020 (= the measurement period). The employer is free to determine which three months between 1 March and 31 July he wishes to use as the measurement period. If it is expected that the turnover loss will be the highest in the months of April, May and June, the employer is therefore free to use those three months as the measurement period.

By offering this flexibility, it is made possible for more employers to meet the turnover criterion. Especially in specific sectors of the economy, the turnover loss can start later than the loss of economic activity.

#### *Average turnover loss over three months*

It concerns the average turnover loss over the entire measurement period. If there is a 20% turnover loss in one month whereas a normal turnover is realised in the two surrounding months, there is no entitlement to a NOW subsidy. After all, on average over those three months, the turnover loss is 6.7%. If there is a turnover loss of 60% in one month, the average turnover loss over three months will therefore be at least 20%, which means that the employer will be entitled to a subsidy.

#### *Reference turnover*

The turnover in the measurement period is compared to the turnover from January up to and including December 2019, divided by four (= reference turnover). If an employer did not yet exist on 1 January 2019, a different turnover calculation applies. The reference turnover is therefore the average quarterly turnover in 2019 (over the entire year 2019).

#### **Example**

*An employer had a turnover in 2019 of an average of € 100,000 per month, or € 1,200,000 over the entire year. In the period from 1 March up to and including 31 May 2020 - in this example the measurement period over which the employer has indicated that his turnover loss has been calculated - his turnover averages € 70,000 per month, or € 210,000 over the entire measurement period. In this case, the average turnover loss therefore is:*

$$\frac{(\text{€ } 1,200,000 / 4) - \text{€ } 210,000}{(\text{€ } 1,200,000 / 4)} = 0.30 = 30\%$$

If the turnover in the measurement period is at least 20% lower than the reference turnover, the employer will receive a subsidy on the wage costs in the period from 1 March up to and including 31 May 2020. The subsidy therefore does not correspond with the wage costs in the measurement period

chosen by the employer. Only the wage costs in the period from March up to and including May will be compensated.

#### *Determining turnover loss at group level*

An important element in the NOW is that when there is a composition of legal persons, for instance a group, the subsidy for the individual employers within the group is determined on the basis of the average turnover loss of the entire group. This also applies for companies that are in a parent-subsidary relationship. They are also treated as if they were a group.

For groups with Dutch and foreign subsidiaries, the rule applies that the turnover loss of group units established abroad that do not have a Dutch National Insurance wage (“SV-loon”) cannot be counted. Although the turnover loss is therefore always calculated at a group level, the subsidy has to be applied for per payroll tax number within the group. In the applications, each payroll tax number must report the same percentage of turnover loss.

#### *Definition of turnover*

The turnover loss is determined on the basis of the net turnover, meaning the proceeds from the provision of goods and services by the enterprise of the legal person (after deduction of reductions and the like and tax levied on the turnover). The changes in ongoing projects also count as turnover for the NOW.

For some employers, such as various non-profit organizations, the 'normal' concept of turnover from proceeds of the provision of goods and services is somewhat difficult to apply. Such organizations also receive other types of income from, for example, (semi) public funds, from which wage costs are paid. Therefore, the revenues, proceeds and other benefits, such as distributions, subsidies and contributions from government institutions, and other revenues, such as gifts or claims from health insurers, are also regarded as turnover for the NOW.

## **Determining the amount of the subsidy**

#### *Wages and wage costs subsidy*

Another question that has arisen among employers is what is meant by the term 'wage sum' (“loonsom”). The starting point for the subsidy of 90% of the wage costs is the Dutch National Insurance wage (“SV loon”) from current employment. This means that you as an employer can only receive compensation for employees who are compulsorily insured for national insurances. This not only applies for all employees with an actual employment, but also for employees with a fictitious employment. As a result, however, the NOW does **not** apply for a Director/Major Shareholder (“DGA”) who is not insured for employee insurances, nor for employees who are voluntarily insured.

The wage that is reimbursed by the UWV is also capped to a maximum. The SV wage for which compensation is granted amounts to a maximum of € 9,538 per employee per month (= 2 x the maximum premium wage per month). If an employee receives a higher SV wage in that month, no compensation will be granted for the part that exceeds the maximum.

#### *Subsidy amount and reference month*

The subsidy amounts to 90% of the wage costs as defined by the NOW. For that, in the first instance the social insurance wage (“sociale verzekeringsloon”) for the month of January 2020 is taken into account. For the subsidy, also the social charges, (pension) premiums and holiday pay to be paid by the employer are taken into account. For that, a general (fixed) percentage of 30% is applied, so that in the calculation a factor of 1.3 is used for that. The calculation formula of the subsidy over three months therefore is as follows:

Turnover loss expressed in percentage x SV wage sum January 2020 x 3 (months) x 1.3 x 0.9.

The first application that is made is an application for an advance in the wage costs. If the application is approved, the UWV will pay out 80% of the expected subsidy in a maximum of three instalments. As already indicated hereinabove, the advance is always paid out over the months of March, April and May, regardless of whether the turnover loss that has been reported relates to this period or not.

It is then afterwards determined what the actual turnover loss and the actual wage sum have been. In addition, a number of correction factors apply. For example, for benefits that have been received for some employees, or if, for example, the holiday pay has been paid out monthly. It is therefore possible that you will afterwards receive an additional amount of subsidy at the final determination of the subsidy, or that you will have to repay a part of the advance.

#### *Subsidy per payroll tax number*

You as employer have to submit a separate request for application of the NOW for each payroll tax number. As stated hereinabove, the used turnover loss has to be the same for all payroll tax numbers. This also applies if there are multiple legal entities. If an employer has multiple payroll tax numbers, the employer therefore has to submit multiple NOW applications.

## Information to be provided and formal requirements

### *Information to be provided*

If an employer wants to make use of the NOW Scheme, he has to provide the following information:

- The percentage of turnover loss.
- The payroll tax number for which the application is submitted.
- The consecutive three-month period (= measurement period) over which the turnover loss is expected.
- The bank account number on which the employer receives payments from the tax authorities regarding payroll taxes.
- If an application for working time reduction has been submitted, the file number of that application.

The UWV will then decide within 13 weeks whether you are eligible for an NOW subsidy. In practice, the UWV will try to make a decision within 2 to 4 weeks. If you have already submitted an application under the Working Time Reduction Scheme (WTV), this application will automatically be regarded as an application for the NOW subsidy. These employers will be given the opportunity (within 4 weeks) to supplement the information that they have already provided in the WTV application with the additional information required for the NOW application.

Please note that you can submit the NOW application until 31 May 2020 at the latest. Applications submitted after 31 May will not be processed.

## Additional conditions attached to participation in the NOW Scheme

Considering its purpose – employment preservation - there are two other very important conditions for participation in the NOW scheme:

1. The employer has an obligation to exert his best efforts to keep the wage sum the same as much as possible. A decrease in the wage sum in the subsidy period will have consequences for the eventual subsidy; and
2. During the period for which a subsidy is received, the employer cannot submit a dismissal application that is based on business economic circumstances.

If the employer in the period from 18 March up to and including 31 May 2020 has nevertheless submitted a request to the UWV for permission to terminate employment contracts on the basis of business economic circumstances and this request has not been withdrawn within five working days of the submission of the application, the wages of the relevant employees, increased with a

surcharge of 50%, will be deducted from the total wage sum on the basis of which the subsidy amount is determined. Also then, the final subsidy will therefore be set lower.

## Other formal obligations

Finally, the NOW also has a number of formal obligations that you as an employer must continue to meet. Most of those obligations relate to the possibility of checking the subsidy application. In this whitepaper we briefly explain four of these formal obligations.

- You as employer have to inform the Works Council or other staff representation body, or, in the absence thereof, your employees, about the subsidy;
- You as employer must continue to file payroll tax returns in a timely manner, so that the UWV can dispose of the correct data.
- Per payroll tax number, you can **only once** submit an NOW application.
- Within 24 weeks after the end of the three-month period to which the turnover loss relates, a formal application will have to be submitted to the UWV with the final turnover loss and the final wage sum, in order to be able to determine whether the advance that has been paid out has been correct, too high or too low. In some cases an audit certificate will be required. Before the end of April, clarity will be given under which limit no audit certificate will be required.

*If you have any questions regarding this whitepaper, please do not hesitate to contact the CROP Corona Desk ([coronadesk@crop.nl](mailto:coronadesk@crop.nl)) or your contact person at CROP accountants & adviseurs.*

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