

# Rödl & Partner

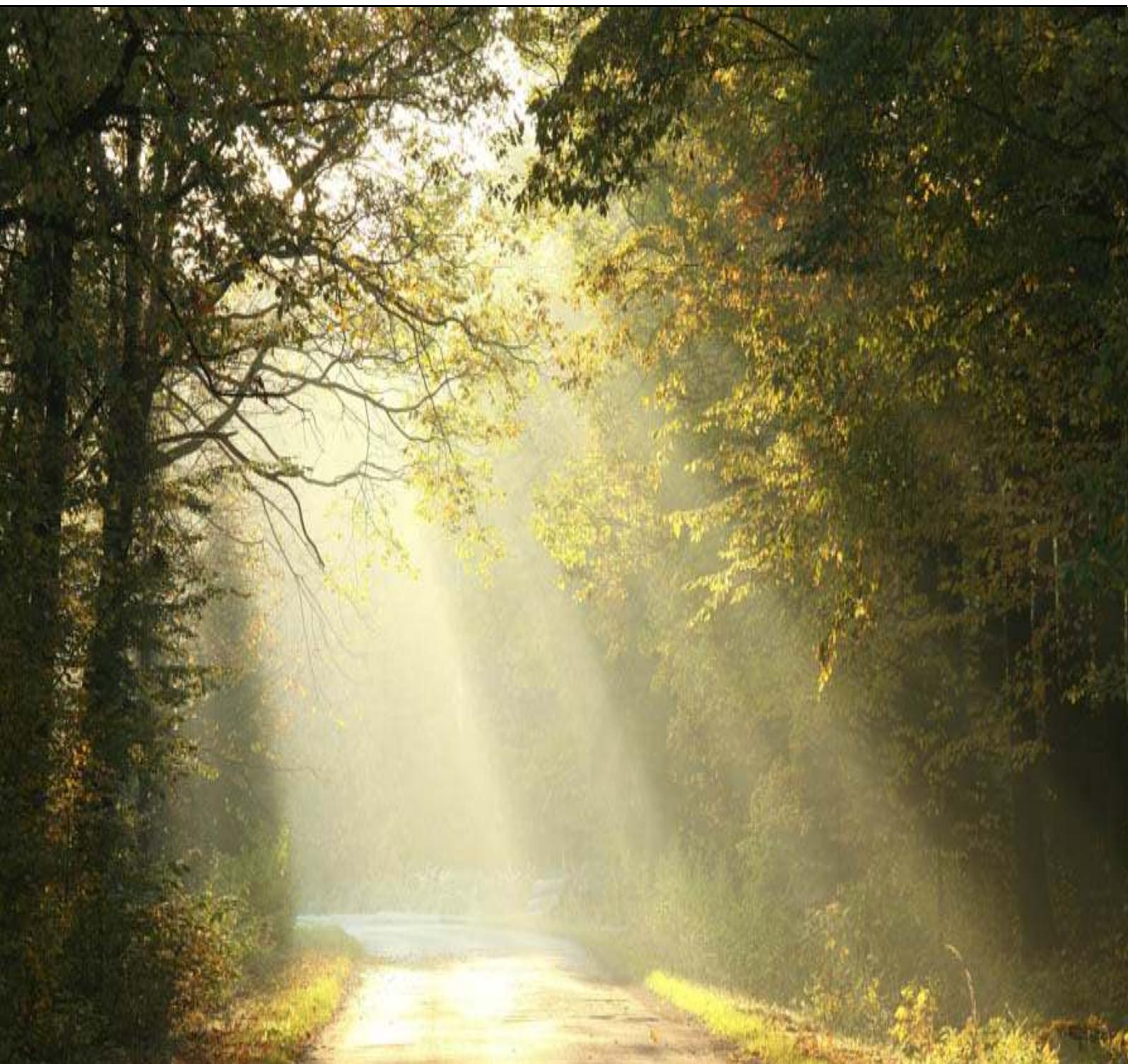
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## GUIDE FOR COMPANIES ON DANISH 'STATE AID MEASURES'

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### Coronavirus (COVID-19)

Status: 19.05.2020



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## 1. PRELIMINARY REMARKS

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In connection with the rapid spread of the corona virus throughout Europe, companies face several challenges in all foreign markets.

With this guide, we would like to give foreign companies with activities in Denmark an overview of the Danish state aid measures and suggestions for further measures to optimize your activities in Denmark.

Our team of experts from LEAD | Rödl & Partner has been advising companies from Germany and other countries on Danish law for many years. Our focus is on the areas of labor law, contract law and corporate law.

Our goal is to overcome language barriers and provide you with tangible, practical support for your Danish business.

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## 2. CURRENT SITUATION IN DENMARK



### **Gradual reopening**

From 11 May the retail trade reopened, including shopping centers. Sports clubs can resume their operation outdoors and in compliance with special distance rules.

From 18 May, the students in grades 6-9 can come back to school in shifts. Children in grades 0-5 have been back since mid-April. Classroom training is still only possible with a limited number of students. Part of the material is taught in homeschooling.

### **Assembly ban for more than 10 people continues to apply**

The ban on meetings of more than 10 people continues until 7 June. From 8 June the restriction is being adjusted to 30-50 people. Events with more than 500 people, e.g. conferences, concerts etc. are forbidden until 31 August 2020.

### **Recommendation on working from home and hygiene measures at the workplace**

Public employees continue to be recommended to work from home as much as possible.

Private employees can return to their workplaces if compliance with hygiene rules is ensured.



(Source: Arbejdstilsynet – The Danish Working Environment Authority)

This includes:

- Stay at home if you have any symptoms of COVID19
- Work is planned in such a way that the employee can hold a minimum distance of 1 meter
- Provide disinfectant
- Minimize contact with others
- Regular cleaning

## 3. TAX AND VAT

### 3.1 VAT Payments

#### 3.1.1 EXTENSION OF PAYMENT DEADLINES

The following applies to companies with an annual turnover of less than DKK 50 million:

	Reporting period	Normal payment deadline	New payment deadline
<b>Monthly reports</b> Annual turnover of over DKK 50 Mio.	Monthly	Monthly	Deadline is postponed by one month
<b>Quarterly reports</b> Annual turnover of over DKK 5 Mio.	First quarter of 2020	2 June 2020	1 September 2020
<b>Half-yearly reports</b> Annual turnover of less than DKK 5 Mio.	First half of 2020	1 September 2020	1 March 2021 (together with the deadline for the second half of 2020)

The registration deadlines for VAT is unchanged.

Negative sales tax can be reported after the end of the reporting period and payment is normally made three weeks later.

#### 3.1.2 VAT LOAN

Companies with an annual turnover of less than DKK 50 Mio. can receive the VAT paid in March paid back on request as an interest-free loan. This also applies to foreign companies that are only registered for VAT in Denmark but have no Danish company or permanent establishment in Denmark.

The payment of the loan is booked in the company's electronic tax account and paid into the company's NEM account. If there are any tax arrears, they will be settled before being paid out.

The loan can be obtained from 5 May and must be applied for online by 15 June 2020 via [www.virk.dk](http://www.virk.dk). The loan must be repaid by 1 April 2021.

### 3.2 Income tax and labour market contribution

The payment period for income tax and labour market contribution was postponed by four months each for April, May and June. The reporting deadlines for the electronic income tax system are unchanged.

For employees who report their income tax themselves or are self-employed (so-called B-Tax), payment deadlines have been postponed as follows:

- The rate of 20 April 2020 has been postponed to 22 June 2020.
- The rate of 20 May 2020 has been postponed to 21 December 2020.

If it is already clear that the income will change significantly, the expected income in the electronic advance tax return can be reduced accordingly, so that the future tax rates will be lower.

## 3.3 Postponement of the deadline for all tax returns

The deadline for submitting tax returns for the 2019 income year has been postponed to 1 September 2020.

The postponement applies to all those who are obliged to declare, i.e. for:

- Salaried workers who receive an annual tax return with the normal deadline being 1<sup>st</sup> of May.
- Self-employed and people with foreign income who normally have to submit a declaration by 1<sup>st</sup> of July.
- Companies and other legal entities who normally have to submit their declaration for the 2019 financial year on 31 March 2020 or later.

The postponement of the deadline is therefore of importance for companies and other legal entities whose financial year ends in the period from late September 2019 to February 2020.

## 3.4 Postponement of deadlines for annual reports

### 3.4.1 EXTENSION OF THE DEADLINE FOR ANNUAL REPORTS

According to the previous legal situation, annual reports must be submitted no later than the end of the fifth month after the end of the financial year. However, the submission of the annual report was postponed by 3 months for all companies whose financial year ends in the period from 31 October 2019 to 30 April 2020.

For the majority of companies, this means that the annual report must be reported to the Danish Business Authority no later than 8 months after the end of the financial year.

### 3.4.2 CONDUCTING GENERAL MEETINGS

The companies are also given the opportunity to derogate from the statutory requirements for holding an ordinary general meeting at a specific time, as well as the possibility of holding a full electronic general meeting, even if the company does not have a specific provision in the articles of association allowing this.

#### WE WILL SUPPORT YOU WITH

##### **VAT:**

- VAT report and online support

##### **Shareholders Meetings:**

- Convening meeting, conduct the meeting and logging
- Required reporting to the Danish trade office

##### **Corporate tax:**

- Determination of taxable income
- Preparation of the tax balance sheet
- Filing the corporate tax return

## 4. STATE AID FOR EMPLOYEES

### 4.1 Payment of wages when sick due to COVID-19

Employers whose employees are sick due to an infection with COVID-19 are entitled to reimbursement of daily sickness benefits from the first day of sickness.

This is an exception to the current rules on continued payment of wages, according to which reimbursement is normally not possible until after the 30<sup>th</sup> day of sickness.

The applicable state daily sickness benefit rate is currently approximately DKK 14,300 per month. Salary costs that exceed this amount must therefore be borne by the employer.

This special right to reimbursement applies to the following employees:

- Employees who are on sick leave due to an infection with COVID-19
- Employees who have been quarantined by the doctor.

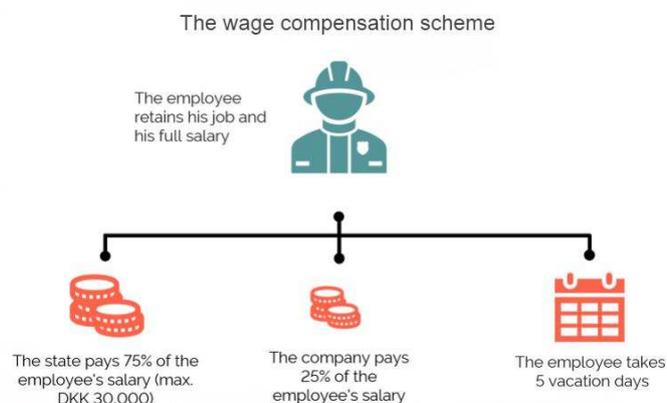
It does not apply in the event that an employee who has not been found to be infected with COVID-19 has quarantined himself or for any other absence due to illness. Similar rules apply to self-employed.

Refunds are made through the online portal [www.virk.dk](http://www.virk.dk). The regulation applies retrospectively to cases that occurred after 27 February 2020 and is limited until 1 January 2021. The payment is made to the company NEM-account.

### 4.2 Salary compensation

The Danish government together with the Danish labour market parties (unions and employer associations) agreed on a salary compensation scheme to companies that suffer from lack of work to counter impending layoffs in the private sector.

Employers who would have to lay off more than 30% of their workforce or more than 50 employees due to a lack of work or other corona-related consequences can receive a state salary compensation for a maximum of three months if, in return, they commit to not terminating any employees and instead send the employees home during the period while continuing to pay full salary.



(Source: Copenhagen Capacity)

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Salary compensation is available for Danish employers with a CVR number. Private associations and clubs however, can also apply for salary compensation. Companies applying for salary compensation cannot be funded 50% or more by the government. Employees for whom compensation is applied for must work in Denmark.

The following salary compensation applies:

- For full-time employees up to 75% of the salary, max. however, DKK 30,000 a month
- For hourly-paid employees up to 90% of the salary, max. however, DKK 30,000 a month

## 4.2.1 NO WORK DURING THE SALARY COMPENSATION - BUT ROTATION IS POSSIBLE

Employees are not allowed to work during the period for which salary compensation is requested. An even distribution of salary compensation among more than 30% of employees can be achieved by rotation. In this way, all employees can be listed in the application for salary compensation, together with the number of days for which the employees work during the application period. On the days which the employee works, he then receives no salary compensation. The employer must ensure that at least 30% of the employees are not working at all times.

Example:

*A company with 10 employees can apply for salary compensation for four employees (at least 30%). These four employees are then not allowed to work for the entire compensation period. Alternatively, the company can request compensation for 8 employees, indicating that the employees work half the time in the application period. This allows employees who are not working to take turns.*

## 4.2.2 TAKING HOLIDAYS INTO ACCOUNT DURING THE COMPENSATION PERIOD

Each employee must contribute with 1.67 days off per month. This can be done by deducting remaining holidays, time off in lieu for overtime work, using holidays from the new holiday year or by deducting days off without salary for each employee. Neither salary compensation nor salary is paid for these days.

## 4.2.3 APPLICATION PROCEDURE

The salary compensation scheme applies for the period from 9 March 2020 to 8 July 2020. The application for salary compensation for the extended period from 9 June – 8 June 2020 must be made through a separate application available from May.

The application for the salary compensation must be submitted via the online portal [www.virk.dk](http://www.virk.dk) no later than 30 June 2020.

The following documents must be made available for the application:

- Number of employees send home (at least 30% or more than 50 employees)
- CPR number, salary and employment status
- Period for which the salary compensation is applied for
- Solemn declaration confirming that the information provided is correct

The following documentation must be made available after the COVID-19 situation:

- Documentation that the company has send home the respective employees in the said period (employees must be employed before 9 March 2020) – **LEAD | Rödl & Partner recommends that to provide a letter to employees who have been send home outlining the terms hereof.**
- Confirmation that the information provided is correct by the employee representative

**IMPORTANT:** Companies must ensure that all information provided is correct and well documented. Otherwise, repayments can be requested, and fines can be imposed during later checks.

## 4.3 Short-time work as an alternative to dismissal

There is no Danish regulation comparable to the German short-time work. The background is that unemployment insurance in Denmark is not part of the statutory social security system, but a private matter.

Employees can become members of a private unemployment fund and pay contributions (A-Kasse). In the event of unemployment, the unemployment insurance fund pays unemployment benefits, which are up to 90% of the previous salary. If an employee has no unemployment insurance, they can only receive Danish social security benefits.

Short-time work is therefore mainly considered for companies with collective agreements, in which such arrangements can be introduced. Private companies whose employees are subject to the Salaried Employees Act are usually not bound by collective agreements.

**Short-time work can only be established in these companies if all employees agree hereto!**

There are four final options for short-time work:

- Work 3 days, 2 days unemployed
- Work 1 week, report 1 week of unemployment
- Work 2 weeks, report 1 week of unemployment
- Work 2 weeks, report 2 weeks of unemployment

Such an agreement must be registered with the Danish employment office (Jobcenter) before it can enter into force and can be applied for a maximum of 13 weeks.

Employees who are members of an unemployment insurance fund receive unemployment benefit for the period of unemployment. Employees who are not members of an unemployment fund only receive social security benefits and these employees are therefore of little interest in concluding such an agreement.

### WE WILL SUPPORT YOU WITH

#### Sparring to reduce personnel costs:

- Discussion of the possibilities, e.g. arrangement of vacation, overtime reduction, agreements on wage reduction, dismissal scenarios, wage compensation, short-time work
- Preparation of the necessary documents

#### Salary compensation and short-time work:

- Advice on the requirements
- Creation of the required documents
- Online support for electronic applications
- Assistance with control requests and visits

## 5. COMPENSATION FOR BUSINESS INTERRUPTION

### 5.1 Compensation for self-employed

Self-employed who have had a turnover of minimum DKK 10.000 per month in the preceding period and expect a revenue loss of minimum 30% can receive financial compensation corresponding to 90% of the expected revenue loss.

However, the compensation amounts to a maximum of DKK 23.000 per month.

In order to receive compensation, it is a requirement that:

- There is a maximum of 25 full-time employees
- The company was founded or established before 9 March 2020

Companies with a CVR number must also meet the following requirements:

- The applicant is a co-partner with a share of at least 25%
- The average turnover is at least DKK 10.000 per month
- The business owner / partner works in the company himself

In contrast to employees for who salary compensation is applied for, business owners can continue to work during the period in which compensation is paid.

A temporary compensation scheme has also been introduced for self-employed without a CVR-number who have had a turnover of DKK 10.000 per month in the preceding period and expects a loss of income of at least 30%. The self-employed can receive 90% of the expected B-income loss, however a maximum of DKK 20.000 per month.

Applications are submitted electronically via [www.virk.dk](http://www.virk.dk).

The application for compensation for self-employed for the extended period from 9 June – 8 June 2020 must be made through a separate application available from May.

A list of actual revenue or B-income must be submitted by 8 December 2020 at the latest.

If the actual revenue in the period 9 March – 8 July 2020, are above the expected or exceeds the personal annual income of the business owner of DKK 800.000 in 2020, repayments must be made.

### 5.2 Compensation for fixed costs

For several companies, such as restaurants, hotels and airlines, the business has temporarily disappeared or has been reduced. At the same time, companies still have to pay rent and other fixed expenses. The Danish government therefore introduced a fixed cost compensation scheme where companies can be reimbursed for documentable fixed expenses, including, for example, rent, contract-related expenses (leasing), etc.

The prerequisite for applying for compensation for fixed costs is that there is a decline in revenue of at least 35% in the period from 9 March to 8 July 2020 and that the fixed expenses amount to at least DKK 12.500 for three months within the said period.

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The following compensation scheme for fixed costs apply:

- 80% if the revenue decline has been between 80-100%
- 50% if the revenue decline has been between 60-80%
- 25% if the revenue decline has been between 35-60%

In this period, companies who are required to be fully closed will be compensated during this period, corresponding to 100% of the fixed costs. A maximum compensation of DKK 110 million per company can be achieved during this period. It should be noted, however, that with the payment of compensation of more than DKK 60 million, no dividends may be paid or share purchases concluded in the financial years 2020 and 2021.

The application for compensation for fixed costs for the extended period from 9 June – 8 July 2020 must be made through a separate application available from May.

## 5.2.1 OFFSETTING LOSSES

For companies that had a negative operating result in the past financial year, the compensation is reduced in proportion to the loss.

- If the reduction in the compensation amount after this is more than 50%, the trade office can still grant a payment of 50% of the compensation amount after a concrete assessment of the expected negative operating result and the variable costs in the compensation period.
- If the last operating result was negative due to exceptional circumstances, the compensation amount will not be reduced if:
  - o The result for the three financial years 2017, 2018 and 2019 is positive overall, or if the result for each of the three financial years 2016, 2017 and 2018 is positive.
  - o The company can document that the recent result is negative due to exceptional circumstances.

## 5.2.2 DANISH AUDITOR DECLARATION

The decline in revenue must be documented by a Danish auditor declaration. If the application is accepted, up to 80% of the auditor declaration can also be covered (maximum DKK 16.000).

## 5.2.3 CONTROL AND REGULATION OF THE COMPENSATED AMOUNT

The Danish authorities can check the information and documents submitted at any time. Actual revenue and fixed costs must be reported on 8 December 2020 at the latest. If there are deviations upwards or downwards, there is a partial regulation.

## 5.3 Compensation for organizers

Organizers who have suffered loss of income due to the state ban on events can receive compensation that covers the loss of income from various sources, e.g. ticket sales, fees for artists, sales of food and beverages and merchandise.

The regulation applies to events that should have taken place between 6 March and 31 March 2020 and either:

- should have more than 1000 participants or
- should have more than 500 participants, if the event is aimed at the special risk groups (older people over 80 years, pregnant women or chronically ill).

However, compensation cannot be applied for the following:

- Lost profit (the compensation must not contribute to the profit)

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- Events where the company is not the main organizer
- Repeated events (e.g. weekly theater event)
- Events organized by public actors such as municipalities or self-governing institutions that receive public grants
- Private events that are closed to the public (e.g. company or member events)
- Costs borne by the insurance company
- Expenditures covered by other public funds (e.g. grants, other aid packages)

Compensation is requested via the portal [www.virk.dk](http://www.virk.dk).

## WE WILL SUPPORT YOU WITH

### Compensation for self-employed:

- Advice and application

### Compensation for fixed expenses:

- Advice and application
- Creation of the required auditor's declaration

### Compensation for organizers:

- Advice and application

## 6. STATE LIQUIDITY AID

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### 6.1 Bank guarantees from the Danish Economic Fund (Vækstfonden)

Companies whose sales have declined as a result of COVID-19 can take advantage of a guarantee from the Danish Economic Fund that secures 70% of loans and business loans granted by banks and other finance companies, e.g. leasing companies.

There are two different guarantee schemes: one for small and medium-sized enterprises (SMEs) and one for larger companies. Under both regulations, companies wishing to avail themselves of the regulation must meet certain requirements:

- Scheme 1: Applies for small and medium sized companies (SMEs). Companies employing less than 250 employees with an annual turnover of less than EUR 50 million and / or a total annual balance sheet of a maximum of EUR 43 million.
- Scheme 2: Applies for larger companies. Companies employing more than 250 employees with an annual turnover of more than EUR 50 million.

The guarantee can apply for 7 years and the application is made through the bank of the company. The price consists of the application fee of DKK 2.500 and an annual commission of 1% of the annual guarantee.

### 6.2 Liquidity guarantee for small and medium-sized export companies (Eksportkreditfonden)

This applies to companies with less than 250 employees who have an annual turnover of less than EUR 50 million (approx. DKK 373 million) and / or an annual balance sheet total of less than EUR 43 million (approx. DKK 320 million).

The Danish Export Credit Fund supports Danish banks or leasing companies, new loans or credits that the bank or leasing company offers to companies that have or are expecting a 30% loss in turnover as a result of the corona crisis in all or part of the period (minimum 14 days) from 1 March to 20 September 2020.

Income loss is determined as the difference between sales / expected sales in the period for which the guarantee is made, based on a reference period.

Only companies with an export turnover of at least 10 % can apply for the liquidity guarantee. The application is made through the bank of the company.

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## 7. WHAT ELSE CAN YOU DO



### **INCREASE THE PAYMENT LIMIT ON THE TAX ACCOUNT**

The pay-out limit can be increased from DKK 200.000 to DKK 10 million. Amounts within the individually defined payment limit can remain in the tax account and thus does not trigger negative interest.

### **OPPORTUNITIES RELATED TO REAL ESTATE**

A possible exemption can be used for a new loan. Any existing mortgages can possibly be rescheduled.

### **REFINANCE BANK LOANS**

The terms of existing bank loans can be extended, or a temporary deferral of the instalments can be agreed.

### **DEBTOR MANAGEMENT**

Check the possibility of paying on account invoices, ensure short payment deadlines and an effective dept collector procedure.

### **LEASE AND RENTAL**

Check leases and reduce rental rates if necessary.

### **GUARANTEES FOR BANK LOANS BY THE ECONOMIC FUND (VÆKSTFONDEN)**

Under certain conditions, both larger companies and Danish SMEs can take out new loans that are secured by guarantees from the economic fund.

### **FREEZE CREDIT INSURANCE**

The Danish government supports credit insurance companies by reinsuring exports to OECD countries. The Danish export credit fund covers up to 90% of the risk of credit insurance companies with new export orders.

### **SEEK DIALOGUE WITH YOUR BANK**

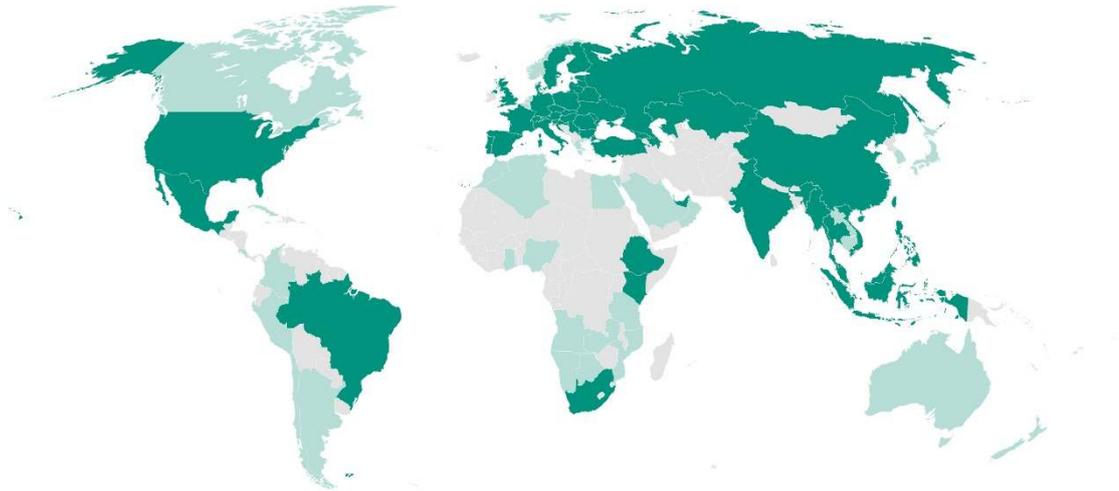
In order to create additional liquidity, existing loans can possibly be expanded, or the payments can be deferred.

### **ADVANCING PAYMENTS AND FLEXIBILITY WITH EXISTING PUBLIC CONTRACTS**

Until 31 October 2020, state institutions can make exemptions from a number of rules that apply to state purchases. If you have existing government contracts, the specific options can be examined in more detail.

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## 8. RÖDL & PARTNER



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