

VILLANUEVA GABIONZA & DY

NEWSLETTER

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FREQUENTLY ASKED QUESTIONS IN RELATION TO THE ENHANCED COMMUNITY QUARANTINE

In response to the threat of the COVID-19 pandemic, the Office of the President issued Presidential Proclamation No. 929, Series of 2020, imposing an Enhanced Community Quarantine ("ECQ") throughout the island of Luzon from the period 17 March 2020 to 12 April 2020 ("ECQ Period"), unless earlier lifted or extended as circumstances may warrant.

During this time, public offices shall operate only with a skeletal workforce while private establishments are constrained to implement work-from-home arrangements or temporarily close and suspend operations, save for those providing basic necessities and essential services such as producers, manufacturers, and distributors of food and medicine, power, energy, water, and telecommunications suppliers and facilities, as well as banks and money transfer services. Business Process Outsourcing establishments and media outlets shall likewise be allowed to operate subject to certain travel restrictions and the observation of strict social distancing measures.

Indeed, this rapidly evolving disease is drastically changing the way businesses are run and operated. In order to help you proactively respond to the unique demands brought about by COVID-19 and the ECQ, we have compiled the common questions raised by business owners and employers and provided answers thereto based on law and the issuances by the different Departments under the Executive Branch.

LOANS

Q: Republic Act No. 11469, otherwise known as the Bayanihan to Heal as One Act ("Bayanihan Act"), mandates the provision of a 30-day grace period for the payment of loans and interests falling due within the ECQ Period. Does this cover all persons, whether natural or juridical?

A: Yes, both natural and juridical persons are covered by the 30-day grace period on loans and interests. (Sec. 4.01 of the Implementing Rules and Regulations of the Bayanihan Act [Bayanihan Act IRR])

Q: Are all lenders required to give a 30-day grace period on loans they have extended?

A: Yes, all lenders, including but not limited to banks, quasi-banks, non-stock savings and loan associations, credit card issuers, pawnshops, and other credit granting financial institutions under the supervision of the Bangko Sentral ng Pilipinas, Securities and Exchange Commission, and Cooperative Development Authority, public or private, including the Government Service Insurance System, Social Security System, and Pag-Ibig Fund. (Sec. 2.01 of the Bayanihan Act IRR)

Q: Can the 30-day grace period be invoked against a foreign creditor or foreign bank doing business in the Philippines?

A: Yes, the law does not distinguish between domestic and foreign lenders doing business in the Philippines. Moreover, foreign corporations doing business in the Philippines are bound by the same laws and rules applicable to domestic corporations of the same class. (Sec. 2.01 of the Bayanihan Act IRR, Sec. 146 of the Revised Corporation Code)

Q: What kind of loans are covered by the 30-day grace period?

A: All loans and interests, including, but not limited to, salary, personal, housing, and motor vehicle loans, credit card payments falling due within the ECQ period, are covered by the 30-day grace period. (Sec. 4[aa] Bayanihan Act)

Q: Does the 30-day grace period include obligations arising from a letter of credit?

A: No, it does not include obligations arising from a letter of credit. A letter of credit is more akin to a contract of service whereby the issuing bank advances payment on behalf of a buyer in consideration of a service fee. (The Hongkong & Shanghai Banking Corporation, Limited v. National Steel Corporation, 734 SCRA 659 [2016])

Q: Will borrowers incur interest, penalties, or other charges if they avail of the 30-day grace period?

A: No. Non-payment of the principal amount or the interest falling due within the ECQ period shall not cause the borrower to incur any compounding interest, penalties, fees, and other charges. (Sec. 3.01 Bayanihan Act IRR)

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TAXES

Q: Does the Bayanihan Act have any effect on the statutory deadlines and timelines for the filing and submission of any document and the payment of taxes, fees, and other charges with the Bureau of Internal Revenue (“BIR”)?

A: Yes, in general, there shall be an extension of thirty (30) days on the various statutory deadlines for filing and submission of documents, as well as the payment of taxes, fees, and other charges with the BIR. For a more detailed list of the extended deadlines, please see BIR Revenue Regulation No. 7-2020.

Q: What are the tax exemptions granted under the Bayanihan Act?

A: The following shall be tax-exempt: (1) the importation of critical or needed healthcare equipment or supplies intended to combat the COVID-19 public health emergency shall be exempt from value added taxes (“VAT”), excise taxes and other fees; (2) then importation of materials needed to make health equipment and supplies deemed as critical or needed to address the current public health emergency shall be exempt from VAT, excise taxes and other fees, subject to certain requirements; and (3) the donation of imported articles to or for the use of the National Government or any entity created by any of its agencies which is not for profit, or to any political subdivision of the government shall be exempt from donor’s tax, and subject to the ordinary rules on deductibility under existing rules and issuances. (BIR Revenue Regulation No. 6-2020)

LABOR

Q: Can employers of establishments that temporarily close or suspend operations during the ECQ put their employees on an indefinite leave without pay?

A: Yes, provided that: (1) the leaves shall first be charged against the employees’ unused leave credits, if any, and (2) the temporary suspension of operation does not exceed six (6) months. (Sec. 1, Art. III of Department of Labor and Employment [DOLE] Department Order No. 209, Series of 2020, otherwise known as the COVID-19 Adjustment Measures Program [“CAMP”], Art.301 [286] of the Labor Code)

Q: Can employees affected by the temporary closure opt not to take an indefinite leave without pay and instead ask for separation pay?

A: No. Employees affected by the temporary closure or suspension of operations are not considered terminated. If they opt to resign instead of being put on an indefinite leave without pay, they shall be considered as having voluntarily resigned and hence not entitled to separation pay. (Hinatuan Mining Corporation v. National Labor Relations Commission, 268 SCRA 622 (1997))

Q: Are employees entitled to any other benefits during the temporary closure?

A: Yes, affected employees, regardless of status (permanent, probationary, or contractual) are entitled to a one-time financial assistance equivalent to Five Thousand Pesos (P5,000.00).

In order to avail of the one-time financial assistance, the employer must submit an Establishment Report on the COVID-19 and the company payroll for the month prior to the implementation of the flexible work arrangement or temporary closure.

Applications with the complete documentary requirements shall be submitted online to the appropriate DOLE Regional Office or any of its Provincial or Field Offices. The Notice of Approval or Denial shall be issued within three (3) working days through electronic mail. (Art. III and IV of the CAMP, DOLE Labor Advisory No. 12, Series of 2020)

Q: Will the ECQ period be counted for purposes of determining the six (6) months probationary period?

A: No, for purposes of determining the six (6) months probationary period, the one (1) month ECQ period is not included. (DOLE Labor Advisory No. 14, Series of 2020)

Q: What is the effect of the ECQ on the payment of holiday pays falling within the ECQ period?

A: Employers are allowed to defer payment on the holiday pay on April 9, 10, and 11, 2020, as may be applicable, until such time that the present emergency situation has been abated and normal operations are in place. (DOLE Labor Advisory No. 13, Series of 2020)

While the spread of COVID-19 brings about unprecedented challenges and a pervading atmosphere of uncertainty, we also acknowledge that it presents with it new opportunities to create solutions to the unique challenges of our time. As we fight this common battle, we here at VGD are committed to be with you every step of the way.

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