

# Analysis of the state aid approved by the Spanish autonomous communities to (try to) mitigate the impact of COVID-19

Corporate & Commercial Area GA\_P

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*The purpose of this note is to analyse certain economic measures approved by the governments of the different Spanish autonomous communities in the form of state aid in order to help companies and the self-employed mitigate the impact of the COVID-19 health crisis. This note does not intend to be exhaustive and does not cover all the state aid approved.*

With some exceptions (e.g. the *de minimis* or less important state aid referred to below), the general rule is that state aid to companies is prohibited when it may affect trade between member States of the European Union (Article 107(1) of the Treaty on the Functioning of the European Union). Notwithstanding the above, and exceptionally in the context of the current COVID-19 crisis, on 19 March 2020, the European Commission approved a temporary framework for state aid measures to support the economy (the “**Temporary Framework**”), which defines the conditions under which member States' aid is compatible with the internal market.

This state aid can take the form of direct subsidies or tax benefits, bank loan guarantees, loans at reduced interest rates, aid implemented through financial entities and/or short-term export credit insurance. The Temporary Framework and the specific state aid are analysed in detail in the note prepared by the European Union and Competition Law department of GA\_P, accessible here: <https://www.ga-p.com/wp-content/uploads/2020/03/Covid-19-The-European-Commission-adopts-a-Temporary-Framework-for-State-aid.pdf>.

## 1. Catalonia

The Government of Catalonia has approved a 1 billion euro bank guarantee (*aval*) line guaranteed by Avalis de Catalunya (the “**Avalis Liquiditat COVID-19 Line**”). Its main terms and conditions are the following:

- **Beneficiaries.** Self-employed and companies with registered office in Catalonia that have been affected by COVID-19 and need cash flow to meet the expenses that have arisen as a result of this crisis situation.

Additionally, eligible companies must not have conducted dismissals amongst their staff. Therefore, one of the purposes of the loans granted by this line is to maintain jobs. However, companies that have carried out a Temporary Collective Redundancy Scheme (*Expediente de Regulación Temporal de Empleo* or “**ERTE**”, its acronym in Spanish) are eligible.

- **Financing amount.** From 50,000 euros to 1,000,000 euros.
- **Coverage of the bank guarantee.** Avalis de Catalunya will guarantee 100% of the loans granted under the Avalis Liquiditat COVID-19 Line.
- **Form of financing, interest rate and fees.** The financing must be a loan. Each financial entity will establish the applicable interest rate, with a limit of 12 months EURIBOR plus a maximum differential of 2.35%. Additionally, the Avalis Liquiditat COVID-19 Line will be subject to an Administration and Risk Commission (*Comisión de Administración y Riesgo* or CAiR, its acronym in Spanish) of 0.65% of the cost of the bank guarantee. There will not be opening or assessment fees.
- **Use of the funds.** Beneficiaries must use the funds to cover their cash flow needs resulting from the impact of COVID-19. Therefore, funds may not be used to repay previous debts or financial needs not related to the current economic situation.
- **Deadline and application procedure.** Beneficiaries may apply for bank guarantees under the Avalis Liquiditat COVID-19 Line up to 30 September 2020, through the financial entities collaborating with Avalis de Catalunya.

As of today, these collaborating entities are Caixabank, Banc Sabadell, Banco Santander, Bankia, Bankinter, BBVA, Cajamar, Caixa Enginyers, Caixa d'Arquitectes and the ICF (*Institut Català de Finances*). Beneficiaries must request the bank guarantees under the Avalis Liquiditat COVID-19 Line directly through the collaborating financial entities.

Financial entities will first evaluate and authorize the transaction. Avalis de Catalunya, on a second step, will assess the transactions approved by the financial entities and will make the final decision on whether to grant the bank guarantee.

- **Repayment.** Loans granted under the Avalis Liquiditat COVID-19 Line will have a repayment period from two to five years, with the possibility of a one-year grace period on the principal amount.

The Avalis Liquiditat COVID-19 Line is intended to generate working capital to help those companies and self-employed who have been affected by the impact of COVID-19, and is complementary to other state and regional aid.

## 2. Basque Country

The Government of the Basque Country has approved a 25 million euro urgent financing line of direct loans to aid self-employed and small and medium companies, through the Basque Institute of Finance (*Instituto Vasco de Finanzas* or "**IVF**", its acronym in Spanish), with bank guarantees granted by Elkargi SGR ("**SGR**").

- **Beneficiaries.** Small or medium companies, as well as self-employed, provided that they meet the following requirements:
  - a) That they have their registered office, decision centre and/or at least one centre of activity located in the Autonomous Community of the Basque Country.
  - b) That they are up to date with the payment of their tax obligations to the Tax Authorities and to the Social Security.
  - c) That they have completed their obligation to pay any refund procedure, if applicable.
  - d) That there is no criminal or administrative sanction involving the loss of the possibility of obtaining public subsidies or aid.
  - e) That they have not applied for or been declared bankrupt or insolvent in any proceedings.
  - f) That they do not have tax residence in a country or territory that qualifies as a tax haven.
  - g) That they are not in collective insolvency proceedings and do not qualify for collective insolvency proceedings at the request of their creditors.
- **Maximum financing amount.** In the case of self-employed, the financing amount will be a minimum of 5,000 euros and a maximum of 50,000 euros; for the other cases, the minimum will be 50,000 euros and the maximum will be 1,000,000 euros.
- **Form of financing, interest rate and fees.** The financing must be a loan with an interest rate of EURIBOR plus 0.50% per year. This interest will be subsidised by the IVF so that the cost to the beneficiary is equivalent to 0%.

Fees will be those of SGR, which include (1) a formalisation fee of 0.25% on the principal amount, paid in one instalment; (2) a guarantee fee of up to 0.75% per annum, 50% of which will be subsidised by the IVF, payable upon formalisation of the transaction for transactions up to 100,000 euros; and (3) subscription and payment of SGR shares

amounting to 2% of the total loan amount, repayable upon cancellation.

- **Use of the funds.** The financing amount must be used by the beneficiaries to cover their fixed structure costs equivalent to six months of the company's ordinary operations, on the basis of the 2019 operating account.

Credit facilities or transitory or temporary cash flow to which the beneficiary may have had access under the current exceptional situation, such as deferral of tax debts, reduction of salaries as a consequence of an ERTE procedure or other applicable benefits must be deducted from the amount of this aid.

- **Application procedure.** Beneficiaries must apply directly to the SGR through its website <https://www.elkargionline.com>. SGR will then assess the applications submitted in order to grant the bank guarantees.
- **Repayment.** Loans granted will have a repayment period up to five years with a one-year grace period on the principal amount.
- **Guarantees.** The SGR may discretionally ask for additional guarantees if needed.

### 3. Madrid

The Government of the Community of Madrid also approved a line of direct subsidies for self-employed affected by COVID-19. This line, initially amounting to 5,000,000 euros, was used in less than a week.

## **Tax measures**

In addition to the general tax measures approved, such as the deferral without guarantees and interests of tax debts and the deferral/split of outstanding tax payments not yet due, some autonomous communities and local entities have approved the following tax measures:

### 1. Catalonia

The municipality of Barcelona has announced the deferral of the Real Estate Tax, the Value Increase of Urban Land Tax and Business Activity Tax, among others.

### 2. Madrid

On 25 March 2020 the Community of Madrid announced the deferral for a period of one more month (the period between March 13 and March 26, both included, had already been deferred), subject to further extensions depending on the duration of the state of alarm, of its self-managed taxes (Inheritance and Donation Tax, Stamp Duty and Transfer Tax and Gaming Tax).

It seems that these measures have a limited impact for companies operating in sectors other than gambling and others where Stamp Duty and Transfer Tax may be more relevant (such as real estate).

Additionally, the municipality of Madrid has announced a 25% discount on the Value Increase of Urban Land Tax rate for properties used for "leisure and hospitality" and "commercial" purposes, and a 25% discount of the Business Activity Tax rate for taxpayers included in the following groups: leisure and restaurants, travel agencies, commercial and department stores. Discounts are conditioned upon maintenance of the average workforce by beneficiaries.

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