

**APRIL:**

## **COVID-19 STIMULUS PACKAGE: POINTERS FOR EMPLOYERS IN RESPECT OF EMPLOYMENT RETENTION PROGRAM (ERP) AND WAGES SUBSIDY PROGRAM (WSP)**



On 27.3.2020, the Prime Minister of Malaysia announced an economic stimulus package known as package Prihatin (“**the Stimulus Package**”) valued at RM250billion, aiming to curb the economic impact caused by the COVID-19 outbreak. The Stimulus Package introduced two forms of financial aids to employers and employees, the Employment Retention Program (“**ERP**”) and the Wages Subsidy Program (“**WSP**”) hoping to cushion the impact of the outbreak on employment in the country. On 6.4.2020, the Prime Minister announced that higher amount of subsidies to be provided to Small Medium Enterprises (“**SME**”) under WSP subject to certain terms and conditions

ERP aims to retain employment by providing financial aid to employees who have agreed to be put on unpaid leave by their employers for at least 30 days since March 2020 due to business downturn caused by COVID-19. An eligible employee will be receiving RM600 on monthly basis for a maximum of six months under ERP. On the other hand, WSP aims to provide financial aid to employers for continuing to pay full salary to their employees during business downturn. Depending on the amount of employees, an eligible employer will be receiving RM600, RM800 or RM1200 per month for each eligible employee for a maximum of three months under WSP. The details of both programs can be seen from the table below:

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<b>ERP</b>		<b>WSP</b>
<ol style="list-style-type: none"> <li>Employees who have agreed to be put on unpaid leave by their employers since 1 March 2020.</li> <li>Malaysian employees earning RM4,000 and below, registered and contributing to the Employment Insurance Scheme (“EIS”)</li> </ol>	<b>Criteria</b>	<ol style="list-style-type: none"> <li>Employers registered with Companies Commission of Malaysia or Local Authority and operate before 1 January 2020.</li> <li>Additional criteria for Medium Sized and Large Sized Enterprises: employers had experienced at least 50% reduction in earnings since January 2020 &amp; the amount of financial assistance to be received is capped at 200 employees.</li> <li>Malaysian employees earning RM4,000 and below, registered and contributing to the EIS.</li> </ol>
The period of unpaid leave has to be at least 30 days.	<b>Attached conditions</b>	Employer cannot terminate, instruct employees to be on unpaid leave and/or deduct employees’ salary for six months (3 months when the employers are on WSP + 3 post WSP).
A minimum period of 1 month to maximum of 6 months, depending on the period of unpaid leave.	<b>Period of Assistance</b>	3 months
RM600	<b>Amount of Assistance</b>	<ol style="list-style-type: none"> <li>Micro or Small Enterprise having up to 75 employees will be receiving RM1200 for each eligible employee.</li> <li>Medium Sized Enterprise having 76 to 200 employees will be receiving RM800 for each eligible employee.</li> <li>Large Sized Enterprise having more than 200 employees will be receiving RM600 for each eligible employee.</li> </ol>
Payment will be credited into the employer’s account, which the employer must then credit into the employee’s account within 7 days of receipt of payment.	<b>Credit of Payment</b>	Payment will be credited into the employer’s account.
Employers	<b>Application to be made by</b>	Employers

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An employer may apply for ERP and WSP concurrently subject to the condition that an employee receiving ERP will not be eligible for WSP and vice versa. Below are the notable differences between the two programs:

### **1. Obligation in payment of salary**

Under ERP, an employer who had issued a notice of unpaid leave to his/her employee for at least 30 days (with the employee's consent) is not obligated to pay salary to the employee during the period of unpaid leave. The employer is only obligated to ensure the RM600 financial assistance under ERP is credited to the employee.

Under WSP, an employer is still bound by the obligation to make full payment of salary to an employee. For example, if the full salary for an employee is RM2,000, the employer is bound to pay RM2,000 to the employee while using the financial assistance under WSP to reimburse/facilitate the cash flow of the company. Further thereto, the employer is to continue paying full salary to employees 3 months after receiving the WSP

### **2. Management of workforce during business downturn**

ERP would be relevant to employers such as service providers or retailers undergoing or anticipating a severe downturn in business and operation, causing them to put their employees on at least 30 days of unpaid leave. ERP would be less helpful for SME which are already running on limited headcounts unless they intend to cease or stop business operation temporarily. Putting some employees on unpaid leave might impair the business operation of SME. In this regard, WSP seems to be more relevant for employers intending to maintain the scale of active workforce during business downturn yet seeking for financial assistance to ease the cash flow of the company.

### **3. Effects on management of workforce upon receipt of ERP and WSP**

One of the apparent difference between ERP and WSP is the duration of financial assistance. ERP as its name suggest, aims to retain employment thus it provides a longer duration of financial assistance to the eligible applicants as compared to WSP. On the other hand, WSP aims to provide a temporary relief for employers for a period of three months on the condition that the employer cannot terminate, issue notice of unpaid leave or deduct employees' salary for at least six months (3 months while on WSP and 3 months post WSP)..

### **4. Proof of business downturn**

As far as Medium and Large Sized Enterprises having more than 75 employees are concerned, only those who had undergone at least 50% reduction in earnings since January 2020 are eligible to apply for WSP. Medium and Large Sized Enterprises applying for WSP are required to provide a declaration by the employer or its authorized representative which amongst others, declaring that the employer had experienced a reduction of earnings or sales for at least 50% since January 2020. The employers or its authorized representative are bound by such declaration – there are legal consequences for untruthful declaration.

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### 5. Method of payment

Under ERP, an employer acts as an intermediary in applying and depositing the financial assistance to the employees. Employers are expected to strictly comply with the requirement in depositing the financial assistance into employees' bank account within seven (7) days upon receiving the financial assistance from the Social Security Organization (SOCSSO). While for WSP, an employer continues to pay wages as usual and the financial assistance is deposited to and used by the employer.

Having read the above, here are few pointers for employers to consider in choosing the right program to aid of his/her employees and the company. An employer ought to ask himself/herself the following:

1. Has the business been affected by the outbreak of COVID-19 since January? If yes, what is the extent of such effect?
2. What is the minimum headcount required to keep the business up and running?
3. What happens to the operation of the business if some employees are to be put on unpaid leave?
4. What is the outlook on the business for next three months?
5. Depending on the projected outlook on the business for next three months, what is the plan in managing workforce for the next three months?

Employers ought to examine all cards in their hands and utilize the right resources to rise above the tides during this trying times. Employers ultimately would still have to decide whether such packages work for them or they may resort to 'self-help' by implementing more aggressive cost cutting measures as means to survive. If they are to choose the latter, it is advisable for them to consult their employment lawyers to ensure the cost cutting measures are in accordance with the employment and industrial relations laws.

*'Tough times never last, but tough people do - Robert Harold Schuller.'*

Should you have any queries or require more information, please do not hesitate to contact us.



**LEONARD YEOH**

Partner, Head of Litigation and Dispute & Resolution Practice Group.

*For further information and advice on this article and/or on any areas of Litigation and Dispute & Resolution, please contact: [leonard.yeoh@taypartners.com.my](mailto:leonard.yeoh@taypartners.com.my)*



**ERI FU** - Associate

[eri.fu@taypartners.com.my](mailto:eri.fu@taypartners.com.my)