

The Social Security Contributions Code (Brief Summary)



On 16th September 2009 the Social Security Contributions Code (hereinafter called the New Code) was published in the Official Gazette (Diário da República) as Law nº110/2009

The New Code comes into force on 1st January 2010, though there are transitional provisions under which a number of alterations will be implemented progressively. These cover in particular the basis of assessment and the contribution rates, a summary of which we set out in the last table.

Under the New Code there are provisions for the basic contribution rate to be adjusted in accordance with the type of employment contract. This alteration does not however come into force until 1st January 2011.

In this summary we set out some of the main alterations made by the New Code to the contributions system for employees, for members of statutory boards and for the self-employed.

The general system for employees

In accordance with the policy already announced, the New Code widens the chargeable base and aligns the Social Security legislation more closely with the Personal Income Tax Code (IRS). It specifically applies the provisions of the Personal Income Tax Code to the basis on which Social Security contributions are calculated for some benefits.

The periods for the payment of contributions and for the declaration of details of pay will be between the 10th and 20th and the 1st and 10th of each month respectively.

The following items will be included as income on the basis on which Social Security contributions are calculated:

- Payments made for personal and entertainment expenses (despesas de representação) when the amount is fixed in advance;

- Amounts paid towards costs incurred (ajudas de custo) and for expenses in the use of one's own car (utilização de automóvel próprio) on behalf of the employer (in the same way as they are taxable for Personal Income Tax, that is, in so far as they exceed the legal limits or when the requirements for their being granted to civil servants are not met);

The sums attributed to workers under company profit sharing schemes relating to their work, whether it is variable or fixed, to the extent that a fixed remuneration is not contractually guaranteed to the worker, at a level appropriate to his or her responsibilities; Sums paid as travel allowances, transport costs and other equivalent payments (in the same way as they are taxable for Personal Income Tax, that is, when the expenses have not been accounted for by the end of the period);

- Travel expenses, financial or otherwise, paid for by the employer to cover trips made for the benefit of the workers;
- Compensation for agreed termination of employment, in cases where there is a right to unemployment benefit

- Cash shortage allowances;
- Amounts spent by the employer, by obligation or by choice, on behalf of the workers, to buy financial products, such as life insurance, investments in pension funds, personal pension plans or any complementary social security system, when they can be redeemed, paid in advance, paid back or in any way paid in advance of the due date or in any case of receipt of capital before the retirement date, or outside the legally defined conditions;
- Performance related payments paid by the business when, because of either the nature or the regularity and permanence of the payments, they can be regarded as regular remuneration, independently of whether the amount of the payments varies.
- All payments of a regular nature made to the worker, in cash or in kind, directly or indirectly, as consideration for the provision of his or her work, when the following circumstances apply:

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- Their award is determined according to objective criteria, even though subject to conditions;
- They constitute a right of the worker and he or she can count on receiving them, independently of how frequently they are awarded.

The widening of the basis of assessment for contributions will come into effect progressively as follows:

- 33% of the amount in 2010;
- 66% of the amount in 2011; and
- 100% of the amount in 2012.

System for the Members of Statutory Boards

The main alterations relating to members of the statutory boards of companies and corporate bodies have to do with the reduction of contribution rates and with the new rules calculating the minimum and maximum limits for income on the basis of which contributions are assessed. These will be now be subject to separate limits for each one of the entities which pays remuneration and not to a single limit for the total income received.

The Self-employed

The New Code eliminates two of the existing contribution systems of Social Security for the self-employed (compulsory system and extended system), and now includes sickness cover for all self employed workers.

In addition, in order to encourage better and more stable labour relations, the concept of sharing social security contributions is introduced for the first time. The self-employed get the protection of social security and those engaging them are obliged to pay social security contributions of 5% (2.5% in 2010) calculated on 70% of the amount paid for each piece of work done for them.

In the case of self-employed workers the lower earnings limit for the payment of contributions is reduced from 1.5 times the statutory minimum income (Indexante de Apoios Sociais) to the statutory minimum income. However the basis of assessment can no longer be chosen by the individual worker but is now fixed according to the actual level of income, that is

- **Service providers** – 70% of the total charge for services provided in the calendar year immediately prior to the time when the basis of assessment for contributions is determined

- **Manufacturers and traders**– 20% of the income from the production and sale of goods in the calendar year immediately prior to time when the basis of assessment for contributions is determined

The upper earnings limit for the assessment of contributions remains at **12 times the statutory minimum income**.

Self-employed workers continue to be exempt from the obligation to contribute when they combine self-employed work with professional employment, as long as all the following conditions are satisfied:

- The self-employed work and the work as employee are provided to different companies which are not under the same control or in the same group;
- The work done as an employee must lead to him or her being included in a social benefit system which covers all the eventualities covered by the system for the self-employed;
- The amount of annual remuneration for the purposes of the other social benefit system must be equal to or more than 12 times the statutory minimum income.

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Combining employed work with self-employed work

The New Code creates a new system for combined work, i.e. a system for workers who work in the same company or for the same business group as employees and as independent contractors. Under this new system the basis of assessment of contributions for the self-employed work is the gross amount of fees paid, and the contribution rate is that applied to employees.

Contribution Rates

Employees

	Current	New SSC Code
Employees with an unlimited employment contract (efectivos) (1)	Employer: 23.75% Employee: 11%	Employer: 22.75% Employee 11%
Members of statutory boards (2)	Employer: 21.25% Employee: 10%	Employer: 20.3% Employee: 9.3%
Employees with a fixed term employment contract	Employer: 23.75% Employee: 11%	Employer: 26.75% Employee: 11%
Employees with a short term employment contract	(3)	Employer: 26.9% Employee: 11%

Pre-retirement employees:

Employees aged 55 or more with a record of more than 37 years contributions	Employer: 7% Employee: 3%	Employer: 18.3% Employee: 8.6%
Employees aged 55 or more with a record of less than 37 years contributions	Employer: 14.6% Employee: 7%	Employer: 18.3% Employee: 8.6%

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Working pensioners:

Workers who have retired because of sickness but are still working	Employer:18.2% Employee:8.3%	Employer:19.3% Employee:8.9%
Workers who have retired because of old age but are still working	Employer:15.3% Employee:7.8%	Employer:16.4% Employee:7.5%

Self-employed:

Service providers	Employer: Worker:25.4% or 32% (4)	Employer:2.5% in 2010 and 5% thereafter (5) Worker:24.6%
Manufacturers and traders	Employer: Worker:25.4% or 32% (4)	Employer: Worker:29.6%

Notes:

(1) Only in force after 1st January 2011 for companies with their contributions in order.

(2) The contributions are assessed on the basis of between one and twelve times the statutory minimum income (2009:€ 419.22).

(3) Up till now there has been no provision for this system.

(4) The rates of 25.4% and 32% were the rates applicable under the compulsory system and the wider system respectively.

(5) The rate of 2.5% and 5% is only applicable to companies and individuals with a business activity who contract service providers.

Someone is considered to be a service provider whose income from the provision of services is at least 25% of his or her total income.

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