

New regulations for temporary work incapacity allowances

28 July 2014

In brief

A new Regulation on the conditions for granting, calculating and paying temporary work incapacity allowances ("the Regulation") has been approved, by amendments to Government Decision no. 108 dated 3 February 2005.

In detail

The main provisions of the new Regulation are in line with the latest amendments of Law no. 289-XV, dated 22 July 2004, on allowances for temporary work incapacity and other social security benefits ("Law no. 289"). For details, please see our Tax and Legal Alerts no. 6 dated 3 March 2014 and no. 8 dated 10 April 2014.

The main provisions introduced by this Regulation include:

- For an insured employee hired for an indefinite period, the right to sick leave allowance for a period beginning before the dismissal date and continuing without interruption after that date is maintained even after dismissal, if the employment contract is terminated for reasons that cannot be attributed to that employee. According to the Regulation, the terminating employer pays the allowance for the post-dismissal period (except in cases of liquidation).
- For the period during which an insured person is on child-care leave (for children up to three years old), no allowances are granted (except the maternity leave allowance). In addition, no allowance is granted for taking care of a sick child up to three years old for the period during which the person responsible for his care returned to part-time work.
- For work activity periods overlapping with sick leave periods, the salary is paid, but not the allowance.
- Salary and annual holiday leave allowances are included in the calculation base of allowances in the months for which they were calculated, while other payments taxed with social security contributions are included in the months in which they were calculated.
- The statement of own responsibility template has been approved for confirming the entire loss of insured income during the sick leave period by people working for more than one employer. Also, the statement of own responsibility template, confirming the status of uninsured people, has been approved. This statement is submitted by:
 - People hired for an indefinite period who have lost their insurance status for reasons that cannot be attributed to them and whose sick leave continues after dismissal;
 - Wives supported by their insured husband for maternity allowance calculation purposes.
- The days of temporary work incapacity for which the allowance was paid by the employer up to and including 31 March 2014 are not included in the period of 15 cumulative days during the 2014 calendar year for which the payment of allowances for temporary work incapacity due to a common illness or accidents unrelated to work (with some exceptions) are paid by the employer.

The above-mentioned amendments apply as of 18 July 2014.

[Source: Government Decision no. 544 dated 8 July 2014 on the approval of amendments to the Government Decision no. 108 dated 3 February 2005, Monitorul Oficial no. 185-199/605 dated 18 July 2014]

The takeaway

The provisions of the Regulation on conditions for granting, calculating and paying allowances for temporary work incapacity have been aligned with the latest changes to Law no. 289.

The period of 15 cumulative days during the 2014 calendar year for which the payment of allowances for temporary work incapacity of employees are paid by the employer does not include the days of temporary work incapacity for which the allowance was paid by the employer up to and including 31 March 2014.

Let's discuss

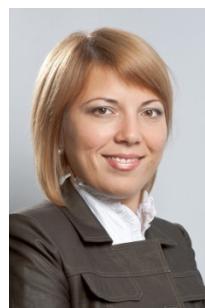
For a deeper discussion of how this new legislation might affect your business, please contact:



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