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Selected amendments to the labour law and social insurances as of 1 January 2016

Payroll Alert

Please find below the most significant, in our opinion, amendments to the labour law and social insurances which shall come into force on 1 January 2016.

Legal basis:

1. Act of 24 July 2015 amending the Labour Code Act and certain other acts (Journal of Laws 2015, item 1268).
2. Act of 23 October 2014 amending the Social Insurance Act and certain other acts (Journal of Laws 2014 item. 1831).
3. Act of 30 July 2015 on cash benefits under social insurance in case of sickness and maternity and certain other Acts (Journal of Laws 2015, item 1066).

I. LEAVES IN RELATION TO PARENTHOOD

1. Maternity and parental leave.

Before the expected date of birth, a female employee is entitled to up to 6 weeks of a maternity leave.

The length of the maternity leave has not been changed. Additional maternity leave has been cancelled.

After having used the maternity leave, an employee is entitled to a parental leave of up to:

- 32 weeks – in the event of giving birth to one child at one birth;
- 34 weeks – in the event of giving birth to two or more children at one birth.

A female employee, not later than 21 days following the date of birth, may be granted a full-time parental leave, at her written request, directly after the maternity leave has been used.

The legislator has entitled both parents to share the maternity leave as well as to take it at the same time. In such cases, the overall parental leave cannot be longer than as stated above.

The parental leave is granted either in full or in parts not later than until the end of the calendar year in which the child reaches the age of 6.

The parental leave of up to 16 weeks may be granted if it does not follow directly the previous part of this leave. The total number of parts used in this form reduces the number of parts of a childcare leave to which an employee is entitled.

None of the parts of the parental leave can be shorter than 8 weeks, with the exception of:

- A. the first part of the parental leave, which, in the event of giving birth to one child at one birth, cannot be shorter than 6 weeks,
- B. cases when the part of the leave which is left to be used is shorter than 8 weeks.

An employee is entitled to combine the parental leave with the performance of work at the employer granting this leave, however, the working time may not exceed half of the full-time. In the case when the employee combines the parental leave with the performance of work at the employer granting this leave, the length of parental leave is extended proportionally to the working time of the employee during the parental leave or its part, however, no longer than until:

- 64 weeks – in the event of giving birth to one child at one birth;
- 68 weeks – in the event of giving birth to two or more children at one birth.

2. Paternity leave

The period in which the paternity leave can be used has been extended until the child reaches the age of 24 months.

3. Childcare leave

An employee is entitled to a childcare leave at his / her written request submitted not later than 21 days before the first day of the leave. The leave is granted in no more than 5 parts, for a period shorter than until the end of the calendar year during which the child reaches the age of 6.

4. Release from work to take care of the child – Art. 188 of the Labour Code

An employee raising at least one child of up to the age of 14 is entitled to be released from work for 16 hours or 2 days in a calendar year. The employee decides on the way of using the leave in a given calendar year in the first leave application submitted in a given calendar year.

II. SOCIAL INSURANCE CONTRIBUTIONS FROM REMUNERATION ON THE BASIS OF CONTRACTS OF MANDATE

Under new provisions, in the case of signing more than one contract of mandate, the first signed contract shall be subject to mandatory social insurance, whereas in the case of other contracts it shall be voluntary. However, a new requirement has been introduced – all following contracts shall be subject to health insurance only if the first signed contract is for the amount of the minimum wage. If the indicated amount is lower, the contractor shall be obliged to sum other contracts, as for the basis of social insurance contributions to equal at least the amount of the minimum wage.

III. E-SICK LEAVE NOTES

Since January 2016 doctors will be entitled to issue electronic sick leave notes, also known as e-ZLA, which shall be transmitted electronically to the Social Insurance Institute and, subsequently, to the employer via PUE profile. Sick leave notes issued in paper form will remain in use until the end of 2017.

The obligation to create PUE profile until the end of 2015 is imposed on payers obliged to e-file social insurance documents, meaning payers accounting for the contributions of more than 5 persons.

Should you wish to discuss the above mentioned amendments in detail, feel free to contact the HR & Payroll Department of RSM Poland.

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