

Real relief for employers of IT programmers? by Peter Schnabl, Accounting & Taxation Services

The almost total transfer of social security contributions to employees has been a hot topic of debate since the end of last year. However, cost neutrality (due to the decrease of wage tax to 10% for employers wishing to pay their employees the same net salary) did not apply to wage tax-exempt activities (eg IT programmers). By means of an Emergency Ordinance¹ (EO) in February, an attempt was made to maintain net salaries through relief in employees' health insurance contribution. Key points of this EO, and its significant ambiguities and criticisms, follow.

Requirements for relief

The EO is only applicable to:

- employees with a salary income (as of 31.12.2017) from a non-governmental employer for a tax-exempt activity under Art. 60 Tax Law, and
- whose gross salary increased by at least 20% compared to December 2017.

Employees exempted from income tax under Art. 60 Tax Law are:

- persons with physical disabilities for specific incomes;
- persons with salary income from IT programming;
- persons with salary income from research and development;
- seasonal workers.

Calculation

For these people, the relief is to be determined by recalculating the health insurance contribution (CASS) according to the following formula:

Health insurance contribution (CASS) new 2018 = gross salary 2018 less pension insurance contribution (CAS) 2018 less net salary December 2017

The following calculation example for salaries exempted from wage tax should clarify this:

A gross salary of RON 10,000 in December 2017, after deduction of social security contributions (10.5% CAS, 5.5% CASS and 0.5% unemployment insurance), resulted in a net salary of RON 8,350.

However, from January 2018 under the new rules, a 20% increase in gross salary to RON 12,000 will result in a lower net salary of RON 7,800 - deducting 25% CAS (RON 3,000) and 10% CASS (RON 1,200).

According to the EO, the new CASS to be recalculated thus amounts to 650 RON (= 12,000 - 3,000 - 8,350) instead of the original RON 1,200.

So instead of the originally calculated health insurance contribution of RON 1,200, only the recalculated value of RON 650 is to be withheld and paid by the employer. The difference (in the example given: 1,200 - 650 = 550) is borne by the state budget, but is to be shown as a separate item in declaration 112 by the respective employer.

Ambiguities and criticisms

The first criticism concerns the time limit. The EO's current wording only provides relief for 2018. From the year 2019, relief will no longer be possible.

Another ambiguity, in our view caused by poor wording, concerns the principle of application of this exemption, since the wording of the provision requires a 'gross salary increase' of at least 20%. Although the economic concept of gross salary includes all regularly granted bonuses (including bonuses granted by employers since January 2018 to maintain net salaries), discussions are under way to establish a restrictive interpretation of 'gross salary'. According to this view, the relief would not be possible for employers who wanted to cushion the transfer of social security contributions to employees by granting a regular supplement.

It is also critical to see that with an increase in gross salary by more than 20% (some employers have already increased salaries of their IT programmers by about 28%, to maintain net salaries) only a degressive relief of their health insurance contribution occurs, ie. the voluntary and timely maintenance of net salaries by an employer at its own expense would now lead to its further disadvantage in the form of these increased costs (these could only be avoided, for example, by reducing the gross salary to benefit most from this new measure).

Conclusion

For employers of IT programmers (a large and economically important group in Romania), the current attempt for relief has created more confusion, and has not solved the cost disadvantages. The limitation of the measure to only one year is incomprehensible.

It would also be desirable to clarify the application standards (for example, the economic interpretation of the term 'gross salary').

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