EMPLOYER’S SOCIAL CONTRIBUTIONS AND EMPLOYEE SOCIAL, MEDICAL AND PENSION BENEFIT IN RUSSIA

The system of payment for social, medical and pension insurance has undergone considerable changes, with new laws in force as of January 1, 2010. Prior to the changes a unified social tax was levied for all these purposes. Now the system has been amended so that the contributions to the social insurance fund, pension fund, and compulsory medical insurance funds are paid (hereinafter “employer contributions” or “insurance contributions”) following separate rules for each of these purposes. In this connection the rules on social tax of chapter 24 of the Russian Tax Code have been abolished and replaced by the Law on Insurance Contributions (“On insurance contributions to the pension fund of Russia, social insurance fund of Russia, compulsory medical insurance federal fund, and compulsory medical insurance local funds”, Law No. 212-FZ of 24.07.2009).

These employer contributions go towards funding the following kinds of social welfare programs:

- Social insurance (compensation and paid leave in case of illness, pregnancy, childbirth, and childcare);
- Compulsory medical insurance (free public healthcare);
- Pension insurance (retirement pension).
Contributing employers

Employers as well as self-employed entrepreneurs and professionals are liable to pay insurance contributions, the latter both for the people they employ and for themselves.

The pension system is funded by mandatory pension contributions made to the Pension Fund, which manages the state pension system (Law “On compulsory pension insurance” of 15.12.2001 No. 167).

The pension is divided into three parts: a basic part, an insurance part and an accumulative part. Unlike the first two parts, the latter applies only to persons born after 1967. It is inheritable and can be transferred to a licensed non-governmental pension fund.

The system of social security is managed by the Social Insurance Fund (Law of 29.12.2006 No. 255-FZ "On compulsory social insurance in case of temporary disability and maternity"). The details on the required employer’s contributions to this system and the paid-out benefits will follow below.

The system of compulsory medical insurance is managed by the Medical Insurance Fund (Law No. 326-FZ “On compulsory medical insurance” of 29.11.2010). The system provides the (mainly) free healthcare and hospital services.

Contributions to the system of mandatory work-related accident and health insurance

The Social Fund also manages the system of compulsory work hazard insurance (insurance against work related accidents and occupational diseases; Law of 24 July 1998 No. 125-FZ “On compulsory social insurance against industrial accidents and occupational diseases").

The insurance rates or work-related accidents are differentiated in relation to the perceived occupational risk. But the system does not actually differentiate for individual risk, basing the risk factor on the statistics connected with the main activity as per official classification of the business of the employer. This assignment of risk factor is based on the amount of insurance premiums actually paid in the preceding year to workers of a certain industry.

The rates range from 0.2% to 8.5 % of the salary (total remuneration). For example, a company employing mainly office workers would pay 0.2% (1 class); a company producing steel would pay 1.9% (class 16); and a coal mining company would pay the maximum 8.5% (32 class). A company (legal entity) may, however, apply individual rates for each of its registered subdivisions.

The base for charging the pension, social and medical contributions

According to the law, the insurance contributions are levied from payments and other compensation made in favor of both salaried employees and freelancers (in Russia frequently referred to as civil law contractors, who may work e.g. on contracts for performance of works, provision of services, commissioning contracts, licensing agreements).

The question as to whether payments to members of a company’s board of directors and audit committee should be subject to insurance contributions is still disputed. The Ministry of Finance previously held that since such payments are not made under employment or civil law contracts, they should not be subject to social tax (Letter No. 03-03-06/1/475 of the Ministry of Finance of Russia dated 10.07.2007). The Ministry of Health and Social Development has extended this interpretation (taken in relation to the former social tax) to apply to the insurance contributions under the new law (letters of Ministry of Health and Social Development No. 2519-19 item 6 of 05.08.2010, No. 1145-19 of 07.05.2010, and No. 421-193 of 01.03.2010). However, the Supreme Commercial Court of Russia in a ruling (under the old law) held that such payments should have been subject to social tax (information letter of the Supreme Commercial Court No. 106 of 14.03.2006).
The amount of insurance contributions due in relation to each employee (insured person) is calculated on an accrual basis from the beginning of the year. Each employer (or other payer of the insurance contributions) makes the calculations solely based on the income the employee earns from this same employer during the calendar year, without regard to income that the employee may have earned from another employer (strictly limited to one legal entity even within a group of companies).

The base for insurance contributions in respect of commissioning contracts and licensing agreements is the net amount after deducting the documented expenses, and in the absence of such documentation they are determined as a fixed percentage of income (Law "On insurance contributions" article 8(7)).

The tax base for compensation received in kind is the real cost of the received goods (services) (art. 8(6)) Federal law “On insurance contributions”.

Remuneration in favor of individuals under civil law contracts is not subject to insurance contributions for the part due to the social insurance fund (Law on Insurance Contributions art. 9(3)). Individual entrepreneurs, lawyers, notaries and other persons with private practice are required to pay a fixed amount of insurance contributions to the Pension Fund of Russia and the Compulsory Medical Insurance Federal Fund based on a sum of required insurance contribution that the Russian Government sets for each year (art. 14 (1) Law No. 212-FZ). For people born after or in 1967 this value was set as RUR 17,208.25, of which RUR 14,386.32 is contributed to the Pension Fund and RUR 2,821.93 to the Compulsory Medical Insurance Fund.

The insurance contributions for self-employed people must be transferred to the Pension Fund of Russia and the Compulsory Medical Insurance Federal Fund no later than December 31 of the current calendar year (Article 16 (2) Law No. 212-FZ). Self-employed people do not pay disability and maternity leave to the Social Insurance Fund (Article 14(5) Law No. 212-FZ).

Compensations exempt from insurance contributions

Some types of compensation (remuneration) are exempt from the calculation base for insurance contributions (art.9), such as:

- Reimbursed expenses associated with the performance of work duties (within the limits established by law);
- Daily allowances trip expenses (within limits set by law);
- Compensation of travel expenses;
- Compensation for physical harm;
- Compensation for accommodation, special clothing, and meals (within the limits established by law);
- One-off material aid to employees due to childbirth (adoption) or in connection with death of an employee or his/her family member;
- Training costs;
- Reimbursement of interest under loans for the purchase or construction of housing;
- Severance payments on dismissal;
- Compensation for unused vacation on dismissal;
- Aid to employees upon retirement (within the limits established by law);
- Federal, regional or local social aid set by appropriate law.

Accounting and reporting periods

The accounting period for insurance contributions is a calendar year (article 10.1).
Insurance contributions are accrued monthly when salaries (or other payments) are accrued, and paid monthly before the 15th of the month following the accounting month. For example, insurance contributions for December are paid up to January 15.

The contributing payer must report quarterly to the relevant authorities as follows:

- To the Social Insurance Fund no later than the 15th of the month following the end of the reporting quarter, and
- To the Pension Fund no later than the 15th of the second month following the end of the reporting quarter

Concerning subdivisions with a separate accounting balance and bank account, the company must separately pay the insurance contributions to the local fund authority and file necessary reports to it.

**Rates**

The insurance contributions are paid in full at a rate of 30% for an annual income (from the same employer) of up to RUR 512,000, after which limit the income is subject to a charge rate of 10% without any further limitations. The law initially set this maximum value at RUR 415,000, but this was raised to the RUR 512,000 together with the additional 10% tail rate with amendments in force from January 1st 2012. (In the year 2011 the limit was RUR 463,000) These limits are subject to annual indexation (Government Decree No. 974 dated 24.11.2011.). According to reports in the public domain, the Government has announced that in 2013 the limit will be raised to 567 thousand rubles.

Under the general rule the 30% insurance contributions are divided as follows:

- 22% is contributed to the Pension Fund;
- 2.9% is contributed to the Social Insurance Fund;
- 5.1% is contributed to the Compulsory Medical Insurance Federal Fund.

The 10% tail on the amounts exceeding the limit goes to Pension Fund.

The table below presents the general rule calculation of insurance contributions under applicable rules as of 2012.

<table>
<thead>
<tr>
<th>Salary (monthly, rubles)</th>
<th>Salary (annual, rubles)</th>
<th>Insurance contribution rate (%)</th>
<th>Insurance contributions (annual, rubles)</th>
</tr>
</thead>
<tbody>
<tr>
<td>50,000</td>
<td>600,000</td>
<td>30% on 512,000 + 10% on 88,000 over the limit</td>
<td>162,400</td>
</tr>
<tr>
<td>140,000</td>
<td>1,680,000</td>
<td>30% on 512,000 + 10% on 1,168,000 over the limit</td>
<td>270,400</td>
</tr>
<tr>
<td>400,000</td>
<td>4,800,000</td>
<td>30% on 512,000 + 10% on 4,288,000 over the limit</td>
<td>582,400</td>
</tr>
</tbody>
</table>
There are several exemptions available for certain categories of employers in the form of preferential charge rates. Some of these are presented below.

**Concessions and reduced rates**

Certain categories of social contribution payers enjoy reduced rates of insurance contributions which will be phased out for all categories by 2027 as follows:

- Agricultural producers;
- Taxpayers who apply the tax regime of unified agricultural tax;
- Residents of high-tech and innovation special economic zone;
- Taxpayers working in the IT sector, under certain conditions;
- Taxpayers under the simplified tax system (but only for limited types of activities);
- Media organizations;
- Theaters, museums, and archives;
- Pharmacies;
- Charitable organizations;
- Taxpayers providing engineering services (under certain circumstances);
- Others (art. 58 Law “On insurance contributions to the Pension Fund” No. 212).

Preferential charge rates for insurance contributions are established for the above categories ranging from 0% to 30%, being subject to the same threshold limits as presented above. The additional contribution of 10% to the Pension Fund does not apply to these kinds of employers (professionals).

The benefits are granted to employers (professionals), provided they meet a number of statutory conditions. Regulatory authorities verify whether the conditions are met at the end of each year. If a taxpayer does not meet any of the conditions, it is no longer entitled to benefit from preferential rates.

The law envisages that these benefits will gradually be effaced by a stepwise increase of rates every 2 years in order to finally catch up with the rates for ordinary categories of employers. But according to the present law, no gradually effacement is foreseen for employers that enjoy preferential treatment by being registered participants of the Skolkovo innovation project (these employers enjoy a special rate of 14%).

**Payments to foreign employees**

In 2010 and 2011, payments to foreign employees were not subject to insurance contributions, except in regard to foreigners who had obtained a residence permit (temporary or permanent) in Russia. But with the change of law in November 2011, income paid to foreign employees (individual contractors) became subject to employer contributions. When the following conditions are met the income is subject to the contributions:

- The foreign employee is a temporary resident or is temporarily staying in Russia, and
- The foreign employee works under an employment agreement for an indefinite period or a fixed-term agreement for a period of 6 months or more.

However, these insurance contributions are due only for the part allocated to the Pension Fund at a rate of 22% (of the total 30%). But by an explicit provision of the law, although the remuneration of these foreigners is subject to these pension contributions, they will still not be entitled to any pension. (Only those foreign nationals who have received a temporary or permanent residence in Russia will be entitled to a Russian state pension.)

Foreigners with a certain kind of status are however still exempt from employer contributions, as follows (art. 7(4)):
• A foreign national living and working abroad (outside the territory of Russia), even in the case that the remuneration is paid from Russia;
• Foreign nationals that have received a work permit under the privileged status of a so-called highly qualified specialist (for more details, please refer to the chapter on Personal Income Tax).

Social aid paid by employers and their possible reimbursements

You will find below a list of cases when an employer is obliged to make various kinds of social aid payments to employees. These payments may be divided as follows:

a. Temporary disability benefit;
b. Maternity benefit;
c. One-off benefit to women registered with medical institutions in early pregnancy;
d. One-off child birth benefit;
e. Monthly child care allowance;
f. Funeral allowance.

Law No. 255-FZ “On compulsory social insurance for temporary disability and maternity” (hereinafter FZ No. 255) provides for the following types of social insurance (FZ No. 255 art. 1.4):

Temporary disability benefit

Employers pay temporary disability benefits using funds from the Social Insurance Fund and their own funds. The law provides for employers’ obligation to pay for the first 3 days of temporary disability and from the 4th day onwards, such payment is made on account of the Social Insurance Fund (FZ No. 255 art. 3(2)1).

The law provides for these cases in which payment of temporary disability is made by the Social Insurance Fund from the first day of temporary disability (FZ No. 255 art. 3(3)):

a. Care given to a sick family member;
b. Quarantine of an insured person, as well as quarantine of a child under 7 years of age attending a pre-school educational institution or another family member deemed incapacitated;
c. Having prosthetics done for medical reasons in a specialized institution;
d. Prescribed aftercare in sanatorium and spa resorts in Russia, immediately after hospitalization.

Temporary disability benefits are calculated on the basis of the average daily wage. The daily wage is defined as the ratio of the accrued employee’s wage for two preceding calendar years divided by 730.

Only the amounts for which insurance contributions are paid to the Social Insurance Fund are included in the calculation, including those paid while working at other insured parties.

Duration of payment of temporary disability benefit

The period of payment of this benefit depends on the grounds for the entitlement (FZ No. 255 art. 6) as indicated in below table.

<table>
<thead>
<tr>
<th>Ground</th>
<th>Duration of payment of benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illness or injury</td>
<td>• The entire period of temporary disability until the date of recovery (disability assessment);</td>
</tr>
<tr>
<td></td>
<td>• Benefit is paid for a maximum of four consecutive months or five months in a calendar year;</td>
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<td></td>
<td>• Benefit is paid to an employee hired under a fixed-term</td>
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<tr>
<td><strong>employment agreement (fixed-term service contract) for up to six months.</strong></td>
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<tr>
<td><strong>Aftercare in sanatorium and spa resorts in Russia, immediately after hospitalization</strong></td>
<td>During the period of stay in a sanatorium, but not more than 24 calendar days (except for tuberculosis).</td>
</tr>
</tbody>
</table>
| **Care given to a sick family member** | • Caring for a sick child under the age of 7 – the entire period of care, but not more than 60 calendar days in a calendar year for all cases of care for that child. Benefit may be paid for up to 90 calendar days in exceptional cases;  
• Caring for a sick child aged from 7 to 15 - up to 15 calendar days for each case, but not more than 45 calendar days in a calendar year;  
• Caring for a sick disabled child under the age of 15 - the entire period of care, but not more than 120 calendar days in a calendar year for all cases of care for that child;  
• And other cases prescribed by law (Article 6 FZ No. 255). |
| **Quarantine of an employee or quarantine of a child aged 7 attending a pre-school educational institution or another family member deemed incapacitated** | Benefit is paid to an employee who has contracted an infectious disease or who is found to be a bacteria carrier, during the entire period of suspension from work due to quarantine. If children under the age of 7 attending a pre-school educational institution or other family members are subject to quarantine, benefit is paid for the entire period of quarantine. |

The law also provides for specific grounds under which temporary disability benefits are not paid out (art. 9(1) N 255 – FZ).

**Benefit amount and payment**

The amount of payable benefit depends on the period of time that the employee has been included in the insurance program. When that time is less than 5 years, then the benefits are paid out 60% relative to the average wages, 5 to 8 years membership yields – 80% of average wages, and from 8 years and over yields 100% of average wages. If the insured person has been working for fewer than 6 months, then the amount of compensation will not exceed the minimum monthly wage of a full calendar month. Temporary disability compensation is calculated according to a special formula (FZ No-255, art.7 (1)).

From the 4th day of disability onwards, employers are entitled to decrease or compensate the payments for disability contributions against insurance expenses incurred for their employees (FZ No-255, art.3 (2)).

You will find below a more detailed description of how to refund or offset amounts from the Social Insurance Fund.

**Maternity leave benefit**

Compensation for maternity leave is granted to women at their request on the basis of a medical certificate. In this case, payable benefits amount to 100% of average wages with some exceptions as listed below (art. 255 Labor Code and No. 255–FZ, art. 13). Maternity benefit is paid in full by the Social Insurance Fund on the basis of a medical certificate confirming the fact. Employers initially execute the payment to the employee and may subsequently refund it from the Social Insurance Fund following the due process (FZ No. 255 art 13 (1)). This rule, however, does not apply to women with a pensionable service of less than six months. The maternity benefit payable to these women may not exceed the minimum monthly wage for one month.
Maternity leave is granted for a total of 140 calendar days (before and after childbirth) and in case of the birth of two or more children for 194 calendar days (total leave before and after childbirth). The maximum amount of paid out compensation of maternity leave is the average daily salary (in the 730 preceding days) times the number of number of days of maternity leave.

If an employee happened to be on leave to care for a child under the age of 1.5 during the previous two years before going on maternity leave, then the employee may require that her compensation be calculated according to the income of those 2 years. The maximum average wage cannot exceed the threshold set for accrual of insurance contributions at RUR 512,000 (the threshold set by the Russian government for 2012 is subject to annual indexation).

As of 1 January 2011, a new procedure has been introduced for calculating the child care benefit. It extends to insurance cases occurring starting from 1 January 2011. Moreover, in a range of cases, the application of a new procedure might lead to a reduction in the amount of the child care benefit. In connection with this, employees may opt for replacing maternity benefits with childcare allowances. But this will be possible only if the childcare allowances were greater than the maternity benefits (FZ – No. 255, art. 11.1(3)).

You will find below a more detailed description of how to refund or offset amounts from the Social Insurance Fund.

**Childbirth allowance**

This allowance is paid upon submission of a birth certificate confirming childbirth together with a statement from the workplace of the other parent to confirm that no allowance will be given to that parent. In 2012, this allowance was set at RUR 12,405.32, while in 2011 it was RUR 11,703.13.

**Monthly childcare allowance for children under the age of 1.5**

A mother (or other caretaker of a child) is eligible for a monthly childcare allowance for the time until the child reaches the age of 1.5 years. (It is to be noted that the person who takes care of the child may prolong the childcare leave yet further until when the child reaches 3 years but no compensation is due for the extended period).

This allowance is granted upon submission of a request to the employer’s accounting department together with a birth certificate, a birth certificate for the previous child (if any), as well as a statement from the workplace of the other parent to confirm that no allowance will be given to that parent. The rights to childcare leave and allowance are not limited to the mother of the child. Other family members such as the father, grand-parents and even other close relatives, who actually care for the child and contribute to compulsory social insurance, are also entitled to these rights. Childcare allowance is granted to one person only, so if another family member receives this allowance, then the mother will not be eligible for it (Decree No. 1012n of the Ministry of Health and Social Development of 23.12.2009).

This allowance is paid out to people subject to compulsory social insurance at a rate of 40% of average wages without exceeding the threshold for accrual of these contributions established for the year (RUR 512,000), but not under the minimum benefit amount:

- RUR 2,326 (per month, in 2012) for care for the first child;
- RUR 4,651.99 (per month, in 2012) for care for the second child and subsequent children.

You will find below a more detailed description on how the employer may refund or offset amounts from the Social Insurance Fund.
Temporary disability benefit for caring for a sick child

Temporary disability benefit for caring for a sick child is paid as follows:

- In case of outpatient treatment – for the first 10 calendar days, in the amount determined by the length of pensionable service in accordance with the general procedure and for subsequent days, at a rate of 50% of average wages;

- In case of inpatient treatment - in the amount determined by the length of pensionable service in accordance with the general procedure.

When such benefit is required to care for a sick child under the age of 15 under outpatient treatment, it is paid regardless of the length of the employee’s pensionable service.

The law limits the number of days (as mentioned in the above table) for such sick leave in a calendar year. Companies must therefore keep a record of the number of days paid to their employees for caring for a sick child. If an employee has several children, records are kept for each child.

You will find below a more detailed description of how to refund or offset amounts from the Social Insurance Fund.

Recovery or offsetting of amounts from the Social Insurance Fund

From the 4th day of temporary disability, employers may set off the benefits paid to their employees against future payments to the Social Insurance Fund (art. 3 (2)1 FZ No. 255). Employers may thus decrease their monthly payments to the Social Insurance Fund by the amount of benefits paid after the 3rd day of temporary disability.

If the amount of paid benefits exceeds the monthly payments to the Social Insurance Fund, employers may get this overpaid amount refunded by sending a written application and required documents to the local office of the Social Insurance Fund with which their company is registered (please see section Refunds from the Social Insurance Fund).

Benefit amounts exceed insurance contributions to the Social Insurance Fund

The upper limit for payment of insurance contributions is set at RUR 512,000. When paid benefits exceed paid insurance contributions, employers may:

a. Offset against future payments to the Social Insurance Fund;

b. Get overpaid amounts compensated by the Social Insurance Fund.

a. Offset against future payments to the Social Insurance Fund

Employers may decrease their insurance contributions to the Social Insurance Fund by the amount of the following benefits paid out to their employees (FZ No. 212, art. 15 (2); art. 1.4(1) FZ No. 255)):

- Temporary disability benefits;
- Maternity leave benefit;
- One-off benefit to women registered with medical institutions in early pregnancy;
- One-off child birth benefit;
- Monthly child care allowance;
- Funeral allowance.
Employers are not required to pay contributions to the Social Insurance Fund until the overpaid amount is fully repaid. However, offsetting must be carried out within the reporting period, i.e. the calendar year (art. 15 (2.1) FZ No. 212).

b. Compensation from the Social Insurance Fund

To get the amounts paid over the limit set for insurance contributions compensated, employers must apply for compensation to their local office of the Social Insurance Fund. There is no limitation term for such application for compensation to the Social Insurance Fund, so the general term of 3 years is usually used (art. 196 Civil Code).

Required documents

Employers must submit the following documents to the local office of the Social Insurance Fund with which their company is registered as prescribed by decree No. 951н of the Ministry of Health and Social Development dated 04.12.09:

- Application for compensation;
- Calculation of accrued and paid insurance contributions (Form 4-Social Insurance Fund);
- Copies of documents confirming the validity and correctness of expenditure;

If the Social Insurance Fund does not find any irregularities in the allocation, calculation and payment of benefits, as well as in the accrual and payment of contributions, it will transfer the required amount to the company’s account. Such transfer is made within 10 calendar days from the date of submission of all required documents (FZ No. 255 Article 4.6).

The Social Insurance Fund may not compensate if benefits were paid in violation of the law, were not documented, or were paid on the basis of documents which were not duly drawn up (FZ – No. 255, art. 4.7 (4)).

The Social Insurance Fund may check the validity and correctness of insurance payments. In this case, the Social Insurance Fund may request additional information and documents confirming the validity of insurance payments and the correctness of their calculation (art. 4.7 and 4.6 FZ N – 255). For example, the following documents may be requested: copies of employment agreements, copies of employee passports, the sick leave registry and other documents directly related to the payment of benefits.

The benefits paid by employers for the first 3 days of temporary disability are not returned, but employers are entitled to deduct these amounts from their company’s profit tax base (art. 264(1)48.1 Tax Code).

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