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News Flash

20th July, 2015



**Entitlement of employees to vacation
leave in Slovakia**

What if employees use more days of vacation leave than they are entitled to?

In summer, employees usually use most part of their vacation leave. However, if the employee terminates the employment relationship before the end of the calendar year, it is possible that part of their vacation leave will have to be returned to the employer.

Vacation Entitlement

If the employee has been continuously working with the same employer for at least 60 days in a calendar year, he/she automatically becomes entitled to **annual vacation leave**, i.e. in the amount of **4 weeks**. If the employee has reached 33 years, he/she is legally entitled to **5 weeks** of vacation leave.

However, the fact that the employee was entitled to annual vacation does not mean that he/she is not obliged to return part of their vacation leave to the employer - if the employee terminates employment relationship before the end of the calendar year, he/she is entitled to the vacation leave only for the months in which the employment relationship persisted.

In practice, it often happens that employees use all vacation leave during the summer, even though they plan to quit their job. Then at the termination of employment, **employees are obliged to repay compensation to which they were not entitled**, i.e. under the Labour Code, the employee is obliged to repay remuneration or its part to which he/she has lost entitlement or to which he was not entitled.

An employee shall be paid remuneration in the gross as well as returns it in the gross - if possible considering its income upon the termination of employment. **If the employee repays remuneration in the gross, his social contributions and tax shall be reduced by the same amount.**

Reduction of Vacation Leave

The employer may reduce the vacation leave of an employee (who is entitled to annual vacation) for the first 100 days of missed work by one

twelfth, applying the same for each additional 21 days missed, if an employee in a given calendar year did not work because of:

- parental leave,
- paid or unpaid leave on the employee's request,
- temporary work inability (excluding incapacity for work due to work injury or disease),
- performance of extraordinary services during crisis or alternative service in time of war,
- long-term release for public office or performance of trade union functions.

Annual vacation leave of an employee who did not work upon prison sentence is reduced for every 21 working days by one twelfth. The same applies for employees in prison custody if the employee was legally sentenced or acquitted, or if criminal prosecution has stopped because he/she is not criminally liable for the offense or that employee has been pardoned or amnestied.

Example no. 1: An employee is entitled to an annual vacation of 25 days. The employer and employee agree on termination of employment on 30.09.2015, but the employee has already used all 25 days of his vacation leave up. Now, the employee's vacation leave is adjusted to 19 days. This means that he/she is obliged to return the payment of wages for six days of leave which have already been paid. If an employee has the average hourly earnings of € 5 and works 8 hours per day, he/she would return upon leaving employment wage compensation in the amount of 240 EUR.

Example no. 2: An employee is entitled to an annual vacation of 20 days. During the calendar year, the employee was temporarily unable to work for 121 working days. Prior to temporary

inability to work, the employee has used all his 20 days of leave. The employee's leave therefore shall be reduced by 2/12 of leave days, which means that he/she will be revised to 16,5 days of leave. The employee will therefore have to repay the employer wage compensation for 3,5 days of leave.

Use of Vacation Leave

The employer fixes up the employee's vacation leave after negotiations with the employee according to the plan of vacations. If the employee appoints his/her representative, the employer must negotiate spending holidays with them.

When planning holidays, the employer takes into account using vacation leave on the whole and ensuring that the employee will use all vacation leave by the end of the calendar year. If vacation leave is distributed in several parts, at least one part has to last two weeks.

An employer may, in agreement with the employees' representatives, **impose collective**

use of vacation leave if necessary for **operational reasons**.

Although, the employer has the right to impose the use of vacation leave to his/her employees, in practice the employer approves the use of vacation leave upon employees' requests according to operating options.

The employer must bear in mind that employees shall use up all his/her vacation leave before the end of the calendar year, which is often neglected in practice.

Cancellation of Vacation

If the employer decides to change employee's use of vacation leave or cancel it, according to §112 of the Labour Code the employer is obliged to pay all the costs which have arisen in connection to this matter.

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