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Breaking news: Constitutional Court nullifies mobility allowance (or cash-for-car)

On January 23, 2020, the Belgian Constitutional Court annulled the entire 'Act of 30 March 2018 introducing the mobility allowance' upon request of 3 environmental associations and 2 trade unions. We refer for more information about the introduction of this 'mobility allowance' to our [June 2018 Mazars Info](#).

The mobility allowance is an allowance that an employee receives from an employer in exchange for returning his/her company car. The Constitutional Court acknowledges that the legislator is pursuing a sustainable environmental objective with the mobility allowance, but it does not agree with the way the mobility allowance works.

The law introducing the mobility allowance results in a different treatment between employees who do not receive a mobility allowance and whose full salary is subject to Belgian tax and social security contributions, and employees who receive a salary plus a mobility allowance that can be freely spent and is subject to a particularly favourable tax and social security regime. The Constitutional Court ruled that the legislator did not provide a reasonable justification for this distinction in tax and social security treatment.

In addition, the employee is free to use this financial compensation, for example, to use his private vehicle for commuting between home and work. The amount of the mobility allowance is calculated on the catalogue price of the last car returned, without any link to the actual number of kilometres driven between home and work.

Furthermore, there are also some employees who received more than one company cars from their employer. It suffices for them to return one company car in order to be able to combine their existing company car with the mobility allowance, they received for returning the other company car.

For all the reasons above, the Constitutional Court ruled to nullify the entire law. Since the mobility allowance has already been applied, there is a transitional period which means that the law can be sustained until new legal provisions enter into force and at the latest until December 31, 2020.

We believe that this decision will have a significant impact on new and existing remuneration policies within companies. For more information in this respect, please contact your Mazars contact.

'Small statutes': new Dimona obligation from 2020

From 2020, the Workplace Accidents Act will be extended to the so-called "small statutes".

The term "small statutes" groups all kinds of traineeships that are not subject to social security, being statutes:

- where work is performed outside the educational or training institution;
- in the context of training resulting into paid employment;
- and without this work implying being subjected as an ordinary employee or apprentice.

Examples are professional immersion trainees, vocational trainees, training paths for jobseekers, practical training to obtain a diploma, ...

All necessary information must be provided to the person subject to the insurance obligation, which depends on the type of traineeship. This could be either the traineeship provider or the training institution. It is their responsibility to file the Dimona declaration, set up a labour accident insurance and file the declaration for accidents at work.

In case your company has any of the abovementioned statutes, please contact us so that we can determine whether any action would be required.

Notification of posted workers in the Netherlands

As of March 1, 2020, employers and self-employed persons from one of the member states of the European Economic Area must notify their work and the arrival of workers who are coming to work temporarily in the Netherlands through an online notification portal and this prior to the start of the work in the Netherlands.

This notification is quite similar to the Belgian mandatory LIMOSA notification that already exists for some years.

Like a Limosa notification, it is important that this notification is done prior to the start of the work in the Netherlands.

In case an employee or self-employed person is going to work in the Netherlands from March 2020 onwards, it will need to be checked what the impact would be of this new notification and how this can be managed. If necessary, our Dutch colleagues can assist you. For more information in this respect, we refer to their [website](#).

Company bicycle - some matters in a row

At the start of this new year many employees may have shared good intentions and would decide to go to work by bicycle. For these employees, the company bicycle could be an interesting alternative to the company car. The company bicycle provides fewer traffic jams, less stress and results in more body exercise for the employees. In addition to the well-being of the employees, there are also a lot of tax benefits for the employer.

First and foremost, the company bicycle is 100% tax deductible for corporate income tax purposes, if the employee uses the bicycle for his or her commuting.

In addition, all maintenance costs on the company bicycle are also 100% tax deductible for the employer. The same applies to associated expenses such as the purchase of helmets, padlocks, leasing costs and the installation of a bicycle shed.

If one of your employees uses a company bicycle for his or her commuting, this is not considered a taxable benefit in kind on which social security contributions and taxes must be paid. However, if an employee would use a company bicycle exclusively for private use (and thus not for commuting), the bicycle is considered as a taxable benefit in kind and subject to social security contributions and wage withholding taxes.

You could also grant your employee a bicycle allowance (even on top of a company bicycle), which you can deduct 100% for corporate income tax purposes. The maximum amount to be qualified as tax-free bicycle allowance is limited to 0,24 EUR/km.

Granting a bicycle allowance as an employer is a favour for your employee, implying that an employer cannot be obliged to grant this allowance unless a sectoral collective agreement prescribes this.

Flemish target group reduction for older employees starting January 2020

From January 1, 2020, the age limit with regard to the Flemish target group reduction concerning older employees has been increased from 55 years to 58 years. However, flexible transitional measures have been put in place.

The Flemish target group reduction for older employees (varying between 600 EUR and 1.500 EUR depending on the age of the employee) consists of two parts:

- a reduction "sedentary" employees for all older operational employees;
- a recruitment reduction for older job seekers.

In both cases the age limit will be raised to 58 years as from January 1st, 2020.

In order to be eligible for the reduction, the employee needs to meet the following conditions:

- Employment in the Flemish Region;
- Subject to the basic Belgian social security coverage;
- Employed under category 1 structural reduction (profit sector);
- Must be at least 58 years old at the end of the application quarter (age condition from January 1, 2020);
- Preferred quarterly wage lower than 13.945 EUR (increased to € 18.545 EUR in every 1st quarter for temporary employees, and in every 4th quarter for other employees);
- Is not exempted from effective performance for the entire quarter, unless in the event of legal suspensions of the employment contract or during a notice period.

If your company has employees who fulfil all of these conditions and you would like more detailed information regarding the application conditions, please contact us.

Career saving plan

Employers subject to Joint Labour Committee 116, 117, 200, 207 and 211 can set up a career saving plan in their company.

The career saving system allows private sector employees to save up time voluntarily. This enables employees to take control of their career and to take breaks when deemed necessary.

A company wishing to introduce a career saving plan has to conclude a collective labour agreement to develop a career saving plan. This collective bargaining agreement must amongst other things specify which days the employee may save, the period when the employee may take up these days and the guarantees offered to the employee. Please bear in mind that the plan is based on the principle of freedom of choice and an employee can not be forced to participate in the system of career saving.

If your company would like to introduce a career saving plan for your employees, please contact us.

Construction works: increased tax reduction in 2020

Employees carrying out construction works on locations working in shifts will most likely benefit of a wage withholding tax reduction. If you do not yet apply this reduction or you are a new employer in Belgium, it might be interesting to verify whether or not one could benefit from this reduction.

A wage withholding tax reduction is applicable as of January 1, 2018 for companies employing staff:

- working in shifts;
- carrying out construction works; and
- performing at least 1/3rd of their time in shift work on construction sites.

As from January 1, 2020, the exemption from payment of part of the wage withholding tax on professional income for qualifying staff will increase from 6% to 18% whereby this percentage is calculated on the total of the remunerations of all the concerned employees together, with exemption of:

- bonuses, other than shift work bonus;
- vacation pay;
- year-end premium;
- arrear payments.

Verifying whether your company would be eligible for this wage withholding tax reduction might reduce the company's labour costs.

In order to benefit from the wage withholding tax reduction, a number of strict conditions must be met. If you have any further questions about this tax reduction and would like to know whether your company qualifies for this wage tax reduction, please contact your payroll consultant.

New reference CO2 emissions for company cars as of 2020

In our latest [payroll newsletter](#), we covered the new level of CO2 emissions for calculating the benefit in kind of a company car as of January 1, 2020.

The benefit in kind of a company car is calculated as follows:

$$\text{Benefit in kind} = [\text{catalogue value} \times \text{degressivity coefficient}] \times \frac{6}{7} \times \text{CO2 percentage}$$

To determine the applicable CO2 percentage, the CO2 emission of the company car is compared to the reference CO2 emission.

For 2020, these reference CO2 emissions are:

- 111 g/km for company cars equipped with petrol, LPG or natural gas engines (instead of 107 g/km in 2019);
- 91 g/km for company cars equipped with a diesel engine (instead of 88 g/km in 2019).

The basic CO2 percentage is 5,5% for the aforementioned reference CO2 emissions. If the emission of the vehicle in question is higher or lower than the reference CO2 emissions, the base percentage shall be increased or respectively decreased by 0,1% per CO2 gram.

The CO2 percentage must be at least 4%. The maximum CO2 percentage is 18%.

Different types of vacation

As a general rule, Belgian law provides that full-time employees are entitled to 20 legal vacation days each year.

Each employee subject to the Belgian social security regime builds up vacation rights for these days during the 'holiday service year' (2019). Only in the following calendar year, the so-called 'holiday year' (2020), the employee may actually take his/her leave days. Whether you get the full amount or only part of it depends on the number of days you worked in the previous year.

Certain sectors also work with working time reduction days: e.g. an employee working 40 hours in a sector where the 38-hour week is in force, saves two extra hours of leave every week worked. On an annual basis, the employee is then entitled to 12 extra working time reduction days.

The big difference between legal vacation days and working time reduction days is that the latter are calculated on the basis of the performance in the current year of service (2020), while the legal vacation days are calculated on the basis of the holiday service year (2019).




In addition, an employer may decide to grant his personnel additional (extra-legal) vacation days on top of the legal vacation. The rules to grant these are entirely up to the employer. These holidays are often granted for unofficial holidays (such as second Christmas or bridging days).

The main advantage of these extra-legal vacation days is that the employer can decide whether the employee can carry these holidays over to the following year or whether or not this is limited to a certain period. This carry-over is not possible for the 20 legal vacation days and the working time reduction days.

If your payroll is already processed by Mazars, we are currently setting up the vacation counters for 2020.

Don't miss the deadline !



-  Wage withholding taxes (monthly basis)
-  Belgian social security contributions
-  Actions

January 2020

Indexation January 2020 : PC 200: + 0,80% and PC 207: + 1,1% (for unconventional companies)

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February 2020

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15 Wage withholding taxes January 2020

March 2020

5 Social security contributions 2nd advance Q1/2020

15 Wage withholding taxes February 2020

April 2020

5 Social security contributions 3rd advance Q1/2020

15 Wage withholding taxes March 2020

30 Balance social security contributions Q1/2020 (January - March)

May 2020

15 Wage withholding taxes April 2020

Attention point!

The tax authorities announce intense and severe inspections for all kind of wage withholding tax reductions. Mazars can assist you with this kind of investigations.



CONTACT

Mazars ALTOS
Bellevue 5 / 1001
B-9050 GENT

payroll@mazars.be

Tel.: +32 (0)9 265 83 20
Fax: + 32 (0)9 265 83 23



Mazars Belgium



@MazarsBelgium

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