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Employee fringe benefits in 2022 from the taxation perspective

Employers use fringe benefits to motivate employees to perform better as well as to differ themselves from the competitors. What does the provision of various fringe benefits mean for the employer and employee in terms of taxes? What changes are coming into force in 2022 in fringe benefits?

As of 2022, Income Tax Act introduces changes in fringe benefits for employees. Fringe benefit will be exempted from employees' income tax and related health and social insurance contributions in the amount of maximum € 500 for the tax period from all employers.

To apply the exemption of fringe benefit from taxation, the following conditions must be met:

- Benefit has to have character of employment income as per the Income Tax Act and be provided in in-kind form;
- It is fringe benefit other than those considered as an income not subject to income tax according to Article 5 paragraph 5 and 6 of the Income Tax Act;
- It is not categorized as an income exempt from tax as per specific stipulations of the Income Tax Act (e.g. competition prize, provision of transport to work);
- From the employer's perspective, the fringe benefit is not provided from the social fund and is treated as tax non-deductible expense;
- The amount of fringe benefit from all employers does not exceed the total amount of € 500 per year.

If the value exceeds € 500, only the amount above this limit is to be taxed on the side of an employee.

The most common forms of fringe benefits are cafeteria systems, teambuildings, tickets for various events, membership cards, payment of employee's life insurance, business cell phone for private purposes and many others.

The exemption of the fringe benefits effective from 2022 is not conditioned by the duration of the employment, size of the company, type of business activity of the employer or number of employees. Whereas the provisions on exemption of fringe benefits does not refer to the Labour Code, the definition of employee as per the Income Tax Act should be applied. Thus, even shareholder/limited partner/managing director who does not have an employment contract with the company can be considered as an employee for the purposes of this exemption.

In case the fringe benefit is provided by the employer voluntarily without being this obligation stipulated in the employment contract concluded with the employee, collective agreement, or internal procedure, it will be exempted from tax up to the amount of € 500 for the tax period.

Exemption from employee's income tax will be applicable also for fringe benefits up to € 500 if the employer provides them based on an employment contract or internal regulation however, only if they will not be recognized as a tax-deductible cost by the employer.

Should the employer decide to consider the expenses for the fringe benefits as tax deductible, the right for the fringe benefits needs to be mentioned in an employment, or other similar agreement or employers' internal procedure and at the same time subject to taxation and social and health insurance contributions on the employee's side.

Meal contribution

As one of fringe benefits, the employers often contribute to employees on meals in the higher amount than minimum limit set by the Labour Code, or meal vouchers are fully reimbursed by the employer. As from 2022, the "voluntary" contribution considered as a benefit provided by the employer will be a taxable income for the employee regardless of the form of the meal contributions (meals for employee in own canteen of employer or canteen of other employer, meal vouchers, financial contribution for meals).

The „voluntary" contribution can be considered as a tax expense by the employer only if such benefit is stipulated in internal procedure, collective, employment contract or other similar agreement between the employee and the employer and at the same time the „voluntary" contribution is subject to employee's income tax and related contributions.

Business car for private purposes

The usage of a company's car for private purposes is considered as employee's taxable in-kind benefit.

The amount of in-kind benefit is set based on the acquisition price of the car (eventually increased by technical improvement of the car) and amortization of a car.

This in-kind benefit is considered as an employee's taxable income during eight consecutive calendar years from the beginning of car put into use in the amount of 1%:

- In first year, the value is calculated from the acquisition price of the car;
- In following seven years the value is calculated based on acquisition price of the car decreased by 12.5 % for each calendar year.

The employee's income tax is applied for each calendar month during which the employee has a right to use the vehicle for private purposes. It is not decisive whether the car was used for private purposes in a given month. These provisions on taxation are relevant with respect to employer's own car as well as the rented one.

The costs related to the use of the car by the employee for private purposes are tax deductible expense in the amount of 100% for the employer if the use of the vehicle is agreed with the employee in an employment or other similar agreement and is subject to income tax on the employee‘s side under the conditions mentioned above.

The provision of car for private purposes is not subject to employee’s income tax after the period of eight years is lapsed. In such case, the employer will include the expenses related to the usage of company’s car for private purposes in the tax-deductible expenses in an actual demonstrable amount corresponding to the usage of vehicle for business purposes or in the form of lump-sum expenses of 80% of total car related costs.

Mobile phone, notebook and other assets used for private purposes

When company’s assets are used by the employees for private purposes, the employer may include the costs for acquisition, technical improvement, operation, repairs, and maintenance of these assets in the tax-deductible expenses in an actual demonstrable amount corresponding to their usage for business purposes or in the form of lump-sum expenses of 80%.

The above-mentioned conditions do not apply to expenses that have been provided by employer to his employees as a fringe benefit agreed in an employment, collective or other similar agreement. If the provision of a notebook and mobile phone for private purposes is agreed, for example, in an employment contract and this benefit is taxed to the employee as an employment income by the employer, the employer may include the expenses related to acquisition of a notebook/mobile phone, monthly telecom charges and other related expenses into tax deductible costs in a full amount.

Should an employer decide to exempt the private use of such assets from the employee’s taxation, it can be done up to the amount of € 500 per year. However, in this case, the employer cannot claim expenses related to private use as tax deductible expense.

Employees’ training

Within providing appropriate working and social conditions, the employer may treat as tax deductible the expenses on the trainings of staff related to employer´s business activity or expenses on own training facilities.

For 2022, not only further training (retraining) related to the subject of the employer´s business activity but any training (even acquiring new qualification) is tax exempt for the employee under the conditions that:

- It is associated with the employer´s business activities;
- In case of increase of university degree, the employee must be in employment or in other similar relationship with the employer for at least 24 months before the beginning of the academic year.

Accommodation for employees

An employer who provides accommodation for his employees may claim expenses related to accommodation as tax deductible if the accommodation is:

- In relation to his own employees;
- Provided in own or rented buildings classified under codes 112 (buildings with two or more units) and 113 (other residential buildings) of statistical classification of buildings,
- If the predominant activity of the employer is production performed in multi-shift operation.

If the above-mentioned conditions are not fulfilled, the employer may classify costs on employees’ accommodation as tax deductible only if having character of fringe benefit agreed in an employment, collective agreement, or

other similar agreement or in an internal procedure and taxable in full amount at the employee's side.

Accommodation provided by the employer in in-kind form is exempt from the taxation for the employee who is in employment relation with the employer. The amount subject to exemption depends on the length of the employment relationship:

- If an employment with the employer lasts continuously for at least 24 months or more, tax exemption can be applied up to € 350 per month;
- If an employment with the employer lasts less than 24 months, tax exemption can be applied up to € 100 per month.

For the situations when the accommodation is not provided by the employer during the entire calendar month, the above-mentioned limits are determined on pro-rata basis. Should the amount of accommodation provided by the employer is higher than statutory limits, only the amount above the mentioned limit represents the employee's taxable income.

Transport of employees to work

Similarly, as for accommodation, a transport to/from the place of work can be tax exempt fringe benefit for the employee. The exemption can only be applied if the conditions under which it is considered as tax deductible expense are met.

The exemption limit for transport is set at a maximum of € 60 in total per month. The amount of fringe benefit is determined based on expenses spent by the employer recalculated based on the vehicle capacity to 1 place. The exemption at the employee side is not conditioned by the partial settlement of this transport to the employer.

The transport provided in in-kind form exceeding this amount must be taxed by the employer in the employee's monthly salary.

The costs of employee's transport can be included in tax-deductible costs by the employer only if:

- Provided to the place of work and back;
- Provided by buses for transport of ten or more passengers;
- The transport is provided because the transportation by the public carrier is not demonstrably carried out at all or to the extent corresponding the needs of the employer (for example, if the absence of the transport would disrupt continuous production activity or would result in labour shortages).

The fact whether the transport performed by the public carrier meets the needs of the employer needs to be proved by the employer whereas there is no specific regulation defining this term in detail.

An employer who provides a financial contribution to the transport of employees to work and back cannot apply the provisions of law relating to the ensuring of transport. The provision of a financial contribution for the transport represents a monetary income and its tax implications depend on the system of such benefit.

Recreation vouchers

An employer who employs more than 49 employees is obliged to provide to an employee whose employment lasts continuously for at least 24 months at his/her request a recreation allowance of 55% of eligible expenses, but not more than € 275 per calendar year.

For these purposes, employee within the meaning of the Labour Code is relevant. It means that, for example, a managing director without an employment contract is not considered an employee. In the case of an employee with a part-time employment relationship, the amount of the allowance is proportional to partial working time.

The recreation allowance may also be provided under the same conditions and to the same extent by the employer who employs less than 50 employees. Fulfilling of the conditions for the provision of recreation allowance is assessed on the day of the beginning of recreation.

On the employee's side, the recreation allowance of a maximum € 275 per calendar year is tax exempt and as well not subject to social and health insurance contributions. The recreation allowances are tax deductible expense for the company.

Social fund benefits

The benefits provided from the social fund represent a taxable income for employees (except for, for example, meal allowance, social aid, preventive medical examinations described below). The tax-deductible expenses of the employer arise at the moment of realizing contribution to the social fund, the use of social fund as such does not affect employers' expenses, however, the finances accumulated in social fund can only be used for purposes in accordance with the Act on social fund.

- Social aid

Social aid provided by the employer from the social fund due to the death of a close person living in the employee's household, elimination or mitigation of natural disasters or employee's temporary disability the uninterrupted duration of which exceeds more than half of the tax period is tax exempt for the employee in the total amount up to € 2,000 for the tax period and applicable only for aid from one employer.

- Preventive medical examinations

In the case of a contribution for preventive medical examinations paid by the employer above to the legal obligations on the protection of the health of employees, if being provided from the resources of the social fund, it represents an income exempt from tax on the employee´s side. The use of the social fund does not impact the company's tax base whereas the tax expense is incurred at the time of the contribution to the social fund.

Other fringe benefits

Employers may also provide other types of fringe benefits.

In general, for fringe benefits the tax assessment of which is not regulated by the Income Tax Act's special provision, as from 1 January 2022 it will be possible to apply an exemption from taxation and related social and health insurance contributions on the employee's side in the maximum amount of € 500, if the provision of the benefit will not be a tax deductible expense of the employer.

The provision of a fringe benefit exceeding the amount of € 500 will represent the employee's taxable income. If the provision of benefit will be agreed in an employment, collective or other similar agreement or internal procedure, it will be considered as tax deductible expense for the company.

Employers may also provide other types of benefits than those described above for which the tax treatment from the employee's or the employer's perspective may not be unambiguous. In case of your interest, we will be happy to provide you with our assistance in their deeper analysis.

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