

Human Capital News

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On 20 May 2014 Verkhovna Rada has adopted the Law №4785 «On introduction of amendments to some Laws of Ukraine regarding improvement of defense and mobilization matters during mobilization» (hereinafter – the Law), which sets changes to some existing legal acts of Ukraine with respect to the rights and obligations of mobilized employees and military personnel

The Law is currently pending the signing by the President of Ukraine, thus, our understanding of the changes to the legislation is based on the text of the draft Law, which was registered for the parliamentary consideration.

The Law provides for, *inter alia*, the following amendments to the Labor Code of Ukraine (hereinafter – the Labor Code):

- ▶ Para 3 of Article 36 of the Labor Code stipulates that conscription for military service during mobilization for the special period (but not more than one year) cannot be ground for termination of employment relations with employee

By making of such amendment legislators have eliminated the legal collision in which Article 119 of the Labor Code guaranteed preserving of job for the employees conscripted for military service during mobilization, while Article 36 allowed termination of employment with such employees

- ▶ Additionally, the Law specified the provision on preserving of average earnings of employees conscripted for military service during mobilization. In particular, employee's salary is preserved at the company, in which conscripted employee worked during the conscription (regardless of the company's subordination and form of ownership). Moreover, the Law stipulates that the employee's salary payments will be made at expense of the State Budget of Ukraine according to the special procedure. The Law does not specify the mentioned procedure, however, we may assume that it will be similar to the one that currently exists for the employees who were constrained for military training, i.e.



by making reimbursements to the employer from the State Budget of Ukraine

In addition, the Law provides for the following amendments to the Tax Code of Ukraine and the Law of Ukraine "On collection and accounting of the unified social tax":

- ▶ For the time of a special period, self-employed individuals (private entrepreneurs and individuals who carry out independent professional activities), who had no employees and were conscripted for military service during mobilization, are exempt from the obligation of accrual, payment and tax reporting of personal income tax and single tax (in case they are working under simplified taxation system), as well as unified social tax

The ground for such an exemption is a claim of self-employed individual and a copy of military card (or other document), issued by the respective state authority, indicating the data on conscription for military service of such individual for a special period. The mentioned documents should be submitted to the tax authority at a place of tax registration of self-employed individuals within 10 days after demobilization or completion of therapy / rehabilitation in connection with performance of duties during mobilization

- ▶ If a self-employed individual, who was conscripted for military service during mobilization for a special period has employees and for the period of his / her conscription authorizes another individual to make payments of salaries to such employees, the obligation of accruing and withholding of personal income tax and unified social tax on top / from the employees' salaries lies on the authorized individual

Personal income tax and unified social tax accrued and withheld by the authorized person should be paid to the State Budget of Ukraine by the demobilized self-employed individual within 180 days from the first day of his / her demobilization without application of any penalties and financial sanctions

In this case the respective reporting should be submitted by the demobilized individual according to the procedure and terms stipulated by the law, without application of any penalties and financial sanctions

- ▶ From now on the following payments are not included into the individuals' taxable income:
 - amount of financial aid (including in-kind) provided to individuals or their family members (children, spouse, parents), military personnel, who were conscripted for military service during mobilization;
 - amount of interest on credit, which has not been charged

In addition, the Law makes the following changes to the Law “On social and legal protection of military personnel and their family members”:

- ▶ Interest on loans, as well as financial sanctions and penalties, should not be imposed on the employees conscripted for military service during mobilization and military personnel, during the time of special period, for breach of duties to the companies (including banks) and individuals

Additional benefits are stipulated by the following changes to the Law “On higher education”:

- ▶ In particular, individuals, who are studying at higher education institutions, may take academic sabbaticals for the time of military service during the special period. At the end of academic sabbatical, individuals may renew their education without any additional charges

It should be noted that “special period”, according to the Law of Ukraine “On defense of Ukraine”, is a period that begins at the moment of announcement of decision for mobilization or from the moment of introduction of martial law in Ukraine or in particular areas of Ukraine and covers the period of mobilization, wartime and partially recovery period after the end of the wartime.

We will continue to track these issues and keep you updated.



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