

Human Capital News

In the last days of 2014 Verkhovna Rada adopted a Law that makes significant changes to state social insurance regulation and to labor and labor safety law.¹

As of 1 January 2015 unified social tax (hereinafter – the UST) rates are reduced (under certain conditions) and there are new fines for labor and labor safety law violation. There are also some changes to the Labor Code of Ukraine (hereinafter – the LC), the Code of Ukraine of Administrative Offences (hereinafter – the CoAO) and the Criminal Code of Ukraine (hereinafter – the CC)

New mechanism for reducing UST rates effective 1 January 2015

According to Law # 77-VIII, effective 1 January 2015, the existing UST rates can be applied with a coefficient of 0.4 to salary (remuneration) paid to private individuals, but only if a UST taxpayer simultaneously meets the following conditions:

- ▶ the UST base has increased compared to 2014;
- ▶ the average salary is increased by a minimum of 30%;
- ▶ the average payment per one insured person should not be less than UAH 700;
- ▶ the average salary at an enterprise should be not less than three minimum wages.

This new rule could encourage companies that delinquently pay taxes on their employees' income to legalize their payments. It could also

¹The Law of Ukraine "On amendments to several laws of Ukraine regarding reforming mandatory state social insurance and legalizing the salary fund" # 77-VIII dated 28 December 2014.

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encourage law-abiding employers to increase salaries for their employees and at the same time to achieve salary fund cost effectiveness.

According to Law # 77-VIII, effective 1 January 2016, UST rates can be applied with a coefficient of 0.6. At the same time, an employer will not be obliged to meet these conditions in order to be entitled to the exemption in 2016.

New fines for labor law and labor safety law violation are introduced

In addition to the existing administrative sanctions for labor law violation, Law # 77-VIII introduces new fines for labor law violation prescribed by the LC. It may encourage employers to legalize their salary funds and their employment relations with employees.

Currently, the LC envisages the following fines for employers:

- ▶ for admitting an employee to work without concluding an employment agreement or employment of an employee for part-time work instead of actual full-time work, or for paying salary (remuneration) without UST and tax withholdings, a fine of 30 minimum wages is imposed;
- ▶ for failure to comply with salary payment (or other payment) due dates for more than one month, or for not paying salary (other payments) in full, a fine of three minimum wages is imposed;
- ▶ for failure to comply with the state guarantees on payment for labor, a fine of 10 minimum wages is imposed;
- ▶ for other labor law violations – a fine of one minimum wage.

Moreover, Law # 77-VIII introduces new fines for officials guilty of labor law and labor safety law violations according to the CoAO.

The fine for admitting an employee to work without concluding an employment agreement or admitting a foreign employee without a work permit will be 500-1000 non-taxable minimum incomes. The fine for late salary, pension or educational allowance payment is 30-100 non-taxable minimum incomes. The fine for labor safety law violation is 20-40 non-taxable minimum incomes.

Law # 71-VIII also changes the CC of Ukraine to make unlawful dismissal of an employee for reporting on violation of the Law of Ukraine “On principles of preventing and counteracting corruption” a gross violation. The penalty is 3,000 non-taxable minimum incomes or deprivation of the right to hold certain positions or to engage in a certain activity, or community work for up to two years.

A number of changes to labor law are introduced

According to Law # 71-VIII an employee cannot be admitted to work until an employer concludes an employment agreement legalized with an order

or instruction issued by the owner or the authorized agency thereof, and notifies the State Fiscal Service about him or her. A notification procedure has not yet been developed.

From now on, employers are obliged to make records in the labor books of students undertaking internships within five days after the internship begins.

One more novelty is in case employment activities actually performed without concluding an employment agreement are established by the authority considering the labor dispute, an employer will be obliged:

- ▶ to conclude an employment agreement with such an employee;
- ▶ to pay salary to such an employee excluding actually paid one at least equal to the average salary by the respective type of economic activity by region;
- ▶ to pay the UST and personal income tax on an employee's income for the whole period of employment relations.

If you have any questions about this newsletter or would like to discuss your personal situation and how the new rules will affect you, please give us a call or send us an email and we will gladly consider your questions online.



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