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■ **Travel expense reimbursement in connection with the new Labour Code**

- effective as of 1 Jan 2007 (if the Czech government and parliament will not decide to postpone the validity of the Labour Code)

Section Seven (Section 151 et seq.) of the new Labour Code, Act No. 262/2006 Coll., regulates the reimbursement of expenses provided to employees in connection with the performance of their work — in particular, travel expense reimbursement is regulated thereby.

Although many well-established principles for the reimbursement of travel expenses remain unchanged, it is first necessary to know the philosophy of the new Labour Code relating to the reimbursement of travel expenses.

Travel expenses, for which reimbursement is made by the employer to the employee, are understood to be expenses arising to the employee in the following cases:

- when on a business trip (Section 42),
- when on a trip outside of his/her regular workplace,
- when on a trip connected with an extraordinary task outside of the working hours at the place of job or the regular workplace,
- when transferred to another workplace (Section 43),
- when an individual is hired to an employment relationship
- when working abroad.

Travel expense reimbursement to employees who work for the employer based on agreements on work performed outside of their employment is specially regulated by Section 155 of the new Labour Code.

The travel expense reimbursement is regulated separately for the business and non-business sphere. The non-business sphere is defined as employers who are the state, a territorial self-governing entity, a state fund, a contributory organisation whose salary costs and costs of remuneration for stand-by work are fully covered by the contribution for operation provided from the budget of the founder, or reimbursement pursuant to special law regulations or by a school being a legal entity and established under the Act on Education.

Travel expense reimbursement in the non-business sphere is regulated in such a way that only departures from the regulation valid for the business sphere are specified. For example, the provision of travel expense reimbursement for the use of an employee's car is the same in both spheres; however, the provision of subsistence allowance differs in the non-business sphere.

Some provisions are common to both spheres, e.g. lump sum reimbursement of costs, and the provision of advance payments.

Although the new Code distinguishes between a business trip and a trip outside of the regular workplace, travel reimbursements apply to both of them. Also, for the purpose of the provision of travel reimbursement, both trips are regarded as business trips (Section 156 paragraph 2 of the new Labour Code).



Travel expense reimbursement, pursuant to Section 156 (1) of the new Labour Code are the reimbursement of

- a) travel fees
- b) travel fees to visit a family member
- c) accommodation outlays
- d) higher food costs ("a subsistence allowance")
- e) necessary ancillary outlays.

Pursuant to Section 156 (3) the employer may also provide other reimbursement of outlays; however, these are not considered to be travel reimbursements.

The travel fees reimbursement is regulated by Section 157 et seq. of the new Labour Code. The first paragraph of Section 157 regulates the reimbursement of travel fees for the use of long-distance mass transportation and taxis – **this is provided in a documented amount.**

The second paragraph of Section 157 regulates travel fees in cases when the employee **with the consent of the employer**, instead of using long-distance mass transportation uses another means of transport, including a motor vehicle, with the exception of a vehicle provided by the employer – **the reimbursement is provided in an amount corresponding to the travel fee for the mass transport.**

The third paragraph of Section 157 regulates the reimbursement of travel expenses in cases when an employee, **at the request of the employer**, uses a road motor vehicle, except for a vehicle provided by the employer – **per 1 km of travel, the basic reimbursement and cost of fuel consumed is provided.**

There is an important change from the previous wording of the law: the travel expenses for using the employee's car are not reimbursed if the employer has agreed with the employee on such use, but they are paid in cases when the employer asks the employee to use the vehicle.

The arrangement of travel expenses for using an employee's car is in principle equal; and by the adjustment of the existing law on travel expense reimbursement:

- for road motor vehicles the basic reimbursement rate per 1 km of travel is at least CZK 3.80 (Section 157 subsection 4 paragraph b),
- the reimbursement for the consumed fuel shall be determined by the employer as a multiple of the fuel unit price and of the fuel consumed (Section 158 subsection 2). In principle, there is really no change from the existing regulation of travel expense reimbursement for the use of road motor vehicles; however there are some important details in which the new regulation quite significantly differs:
- When a trailer is attached to the road motor vehicle, the employer shall increase the basic reimbursement rate per 1 km of travel **by at least 15%** (the current regulation provides for a rate increase of **up to 15%**)
- The employer shall provide the employee with the basic reimbursement rate for trucks, buses or tractors by **at least** double the amount of what is set for passenger road motor vehicles (according to the existing regulation, this is determined **by agreement**).
- The employee proves the cost of the fuel with a document provided during the purchase showing a connection with the business trip. If the employee proves the cost of fuel with several purchase documents in which a connection with the business trip can be seen, the cost of the fuel for the determination of reimbursement shall be calculated as an arithmetic average of costs proved by the employee. The current regulation does not deal with the method of proving the cost of fuels.
- When determining the consumption of fuel, the employer shall use the consumption data for combined operation according to standards of the European Communities. If such data is not stated in the vehicle certificate of roadworthiness/, the employer shall calculate the fuel consumption as an arithmetic average from the data given in the certificate, which is what the current regulation uses..



As far as subsistence allowances are concerned, the following principle is applied pursuant to Section 163 of the new Labour Code, Act No. 262/2006 Coll.:

1. For each calendar day of the business trip, the employer shall provide to the employee food allowance in **at least** the following amounts:

- a) CZK 58, if the business trip lasts from 5 to 12 hours,
- b) CZK 88, if the business trip is longer than 12 hours but does not exceed 18 hours,
- c) CZK 138, if the business trip is longer than 18 hours.

This amount of subsistence allowance is index-related to the price development as given in the rule of execution issued pursuant to Section 189. Here the wording "at least" is important, i.e. the employer may provide any amount of subsistence allowance; however, this leads to higher taxes for both the employee and the employer.

However, **from the viewpoint of taxation** (the non-taxable income of an employee pursuant to Section 6 subsection 7 paragraph a) and tax deduction possibility of the employer pursuant to Section 24 subsection 2 paragraph zh), the subsistence allowance rate for the non-commercial sphere is decisive for the business sphere as well; the subsistence allowance is regulated in Section 176 as follows:

1. The employer shall provide the employee for each calendar day of business trip a subsistence allowance in the following amounts:

- a) CZK 58 up to CZK 69, if the business trip lasts from 5 to 12 hours,
- b) CZK 88 up to CZK 106, if the business trip is longer than 12 hours, however does not exceed 18 hours
- c) CZK 138 up to CZK 165, if the business trip is longer than 18 hours.

This subsistence allowance is index-related to the price development pursuant to the execution rule issued pursuant to Section 189.

Different provisions for the subsistence allowance can be found e.g. in Section 163, which provides the manner and **maximum subsistence allowance reduction** when breakfast, lunch or dinner have been provided (this has to be determined by the employer before sending the employee on the business trip):

2. If during the business trip the employee was given a meal which is by its nature a morning, midday or evening meal for which the employer has not contributed anything, the employer is entitled to reduce the food allowance for each meal **up to**

- a) 70% of the subsistence allowance, if the business trip lasts from 5 to 12 hours,
- b) 35% of the subsistence allowance, if the business trip lasts longer than 12 hours but does not exceed 18 hours,
- c) 25% of the subsistence allowance, if the business trip lasts longer than 18 hours.

Furthermore, the length of the business trip can, if it is more advantageous for the employee, be added from times in two calendar days.

As for business trips abroad, reimbursement for fuels consumed is not calculated for 350km driven abroad, as has been the practice for many year, just as in the case of purchase of fuels in the Czech Republic. There is also a conceptual change concerning the foreign country subsistence allowance. Just as before, The Ministry of Finance shall announce rates for the subsistence allowance while abroad (Section 189); however, the employer may reduce the rate to 75% (with any person), and to 50% (with the crew on domestic shipments) or may increase them at will. **For tax purposes, the subsistence allowance for the non-business sphere, i.e. subsistence allowance provided pursuant to an execution prescription, shall again be applied. For both the commercial and non-commercial sphere, the principle of pocket money at 40% of the subsistence allowance has been preserved.**



■ Information on VAT application for payment in advance and applicable changes in VAT rates

Pursuant to the valid law on VAT if a person (a VAT-payer) realising taxable performance (the delivery of goods, provision of services or transfer of real estate) receives from a person for which s/he realises the taxable performance, a payment in advance (an advance payment, partial or full reimbursement of agreed sum) before realising the taxable performance (before delivery of goods, provision of service or transfer of real property) s/he is obliged to return tax from the payment thus received. This tax is applied at a tax rate corresponding to the rate valid on the day of the obligation of returning the tax, i.e. on the day of receipt of payment.

As of the day of realising taxable performance, the taxpayer is only obliged to return tax from the difference between the total tax base (amount agreed) and payment received (prepayment) rather than from the whole agreed amount, namely tax corresponding to the tax rate valid as of that date.

If in the period from the receipt of payment till the date of realising taxable performance the tax rate valid for specific taxable performance is changed (e.g. when providing building or assembly works, when supplying a building or on the transfer of a building), only the difference between the agreed amount for taxable performance and the amount (or amounts) received, for which the tax has already been returned pursuant to the original tax rate, shall be charged with the changed tax rate.

For example: A VAT payer provides services for which a reduced tax rate is applied, to a person with whom an amount of CZK 1.5 million for services has been agreed. The taxpayer will receive gradually advance payments in an amount of CZK 1 million till 31 Dec. 200x, when a reduced tax rate (5%) for services provided is applied; he will return tax corresponding to the 5% rate. As of 1 January 2007, the tax rate will change e.g. from 5% to 19% and as of 30 June of that year taxable performance (provision of services) is realised. Tax in the amount of the new tax rate (19%) will apply to the difference between the amount agreed for services and the amount corresponding to the received payments (advances), i.e. to CZK 5400,000 (1,500,000 minus CZK 1,000,000).

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