

Legalization of shadow wages

The Law of Ukraine No. 77-VIII dated 28 December 2014 introduced several amendments aimed at stimulation of unshadowing wages and increase of liability for breach of the labour legislation regarding employment without employment agreements and for non-compliance with minimal state remuneration guarantees for employees.

Notifying the State Fiscal Service of Ukraine about the Appointment of a New Employee

According to the changes introduced to the Labour Code of Ukraine (the Labour Code), from now on no employee is allowed to work without conclusion of the employment agreement (executed by an order or decree of the owner or its authorized body) and notification of the State Fiscal Service of Ukraine under the procedure to be further established by the Cabinet of Ministers of Ukraine.

- Accordingly, the employers' liability for breach of employment procedure was specified as follows: a fine of UAH 36,540.00 (about EUR 2,000) for each employee in case of actual employment of such employee without conclusion of employment agreement, registration of such employee as part-time if the actual working performance is full-time as specified at the enterprise, and payment of wage (remuneration) without charging the unified social tax (UST) and other taxes;
- a fine of UAH 12,180.00 (about EUR 670) in case of breach of the stipulated terms of wage payment, other payments, as specified in the labour legislation, for more than one month or its incomplete payment;
- a fine of UAH 12,180.00 (about EUR 670) for each employee in case of non-compliance with minimal state remuneration guarantees for employees.

Rate of the Unified Social Tax Reduced

In addition, the Law reduced the rate of the unified social tax, thus lessening the tax burden on the labour payment fund.

Starting from 1 January 2015 when calculating wage or remuneration under civil contracts the unified social tax rates (depending on the employer's class of occupation risk and type of economic activity, the UST rates vary from 36.76% to 49.7%) apply with the coefficient of 0.4, if the payer (employer) complies with the following four conditions simultaneously:

- the UST base for the period when the wage (remuneration) is calculated at least 2.5 times exceeds the overall monthly base of the UST for 2014; if there is no such exceeding, instead of 0.4 coefficient the payer (employer) is allowed to use the coefficient calculated by dividing the overall monthly base of the UST for 2014 by the overall base of the UST for the month when the wage (remuneration) is paid; however, in any case the coefficient cannot be less than 0.4;
- the average wage at the enterprise increased at least on 30% in comparison to the average wage of 2014;
- the average payment for one insured person after coefficient application is not

less than UAH 700.00;

- the average wage at the enterprise is not less than three minimal wages (the monthly amount of minimal wage until 30 November 2015 is UAH 1,218.00; the minimal hourly wage is UAH 7.29).

Starting from 1 January 2016 when calculating wage or remuneration under civil contracts the unified social tax rates apply with the coefficient of 0.6. However, the employers will not be bound to comply with the conditions mentioned above.

From now on the employers are bound to pay the UST in the amount not less than the minimal tax calculated on the basis of the monthly minimal wage.

Administrative liability of employers increased

The administrative liability of employers was increased, as well as the amount of fines for breach of UST calculating procedure and failure to pay or late payment of this tax.

Thus, for failure to pay or late payment of the UST the amount of fine was increased from 10% to 20% of the outstanding amounts. For additional calculation of the untimely calculated UST by the tax authorities, the fine is increased from 5% to 10% of the additionally calculated amount for each full or not full reporting period; however, as before, the overall amount of fine shall not exceed 50% of the additionally calculated UST.

The Law envisages establishment of the Social Insurance Fund of Ukraine through merging of the Social Insurance Fund for Accidents and Occupational Diseases and the Social Insurance Fund for Temporary Disability.