Two important changes within bonus plan schemes

Did your company introduce a bonus plan for employees attempting to reach a certain collective goal? Last year such a bonus or non-recurring result driven advantage was socially and fiscally exempt up to an annual threshold of 2.430€. Only an extra contribution was due by the employer. As from 1 January 2013 a social security contribution on bonus plans is introduced and the annual threshold is increased.

Non-recurring result driven advantages

The social partners have introduced a scheme for non-recurring result driven advantages in the inter-professional agreement, also known as the (collective) salary bonus. Non-recurring result driven advantages are advantages which are linked to the collective results of a company, a group of companies or a well-defined group of employees based on objective criteria. These advantages depend on the achievement of clearly defined, transparent, measurable and verifiable goals which are uncertain at the start of the bonus plan. Your employees should therefore be motivated to work together to achieve financial or non-financial goals. Example: realizing an increase in turnover, cost reductions or decrease of delivery terms.

New rules as from 2013

Since 1 January 2008 you can pay such an advantage or bonus on top of the normal salary to employees achieving a preset common goal. Bonus plans are interesting for you and for your employees because they are, up to a certain threshold, exempt from taxes and social security contributions. Only an employer's contribution of 33% is due.

As from 1 January 2013 the bonus is not considered as salary up to a maximum amount of 3.100€ per year (instead of 2.430€ until end 2012) and per **employee**. The maximum amount is linked to the health index (of September of the year that precedes the year of the new amount). Up to this amount the income is exempt. The threshold is however only amended for social security purposes, and not for tax purposes. It is expected that the Income Tax Code will be amended as well and that also for tax purposes the threshold will be increased. New in the hands of the employee since this year is the introduction of a social security contribution of 13,07%, however the employee does not pay taxes when the amount of the salary bonus remains under the annual threshold of 3.100€.

In the hands of the **employer** the actually awarded advantages are subject to a special social security contribution of 33%. But for the employer the bonus and the special social security contribution of 33% are deductible expenditure. The amount of the salary bonus is moreover not taken into consideration for the calculation of the holiday pay, year-end pay, notice fee or pension.

No transitional measures

These contributions are due as from 1 January 2013. They also apply to (existing) schemes of non-recurring result driven advantages which were put in place before 1 January 2013, but to be paid in 2013. This means that your employee cannot benefit from the increase up to 3.100€ and the amounts of the salary bonus remains reduced to 2.430€ per year if the existing bonus plan refers to this nominal amount.

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Procedure

Bonus plans should be drafted following a specific procedure. The initiative to introduce non-recurring result driven advantages comes from the employer, irrespective of initiatives taken by parity committees. The advantage is introduced through a collective labour agreement which can be implemented on company or sector level. If there is no labour delegation, you should draft an introduction document which is added to the labour regulation. These forms can be found on the website of the Department of Labour (www.werk.belgie.be) under labour regulations > non-recurring result driven advantages/bonus plans > procedures and forms (forms are available in Dutch and French). If you want to make a bonus plan with goals for 2013, you should be ready by 30 April 2013. The bonus plans should after all be filed prior to the expiring of 1/3 of the applicable period.

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