

A new collective bonus named profit premium

Since the beginning of this year employers can distribute easily a part of the profit to their employees as a bonus. Two different kinds of profit premiums exist. The categorized profit premium and the identical profit premium. One is easier to introduce than the other. Both have interesting tax and social advantages.

No more profit participation through a participation plan

Since 1 January 2018 the profit participation scheme (introduced by law of 22 May 2001 on employee participation in the capital and profit of companies) has been replaced by a new profit premium. The profit premium consists out of a certain amount or a percentage of the salary. The total profit premium amount cannot exceed the 30% threshold calculated on the total gross salary amount at the end of the financial year.

Extra premium

The profit premium is a collective bonus with the following characteristics:

- It is granted to all employees without collective goals being determined
- It cannot be linked to individual performance
- It cannot be assigned in lieu of salary, premiums, benefits in kind or any other benefit
- It will not be taken into account for the calculation of a termination fee or holiday pay, since the premium is not considered as salary
- It has no consequences for the future since employees cannot claim any profit premium
- It does not apply to directors

Choice between identical or categorized premium

In case of an identical premium an equal amount or equal percentage of the salary is granted to all employees. A mere communication of the general shareholders meeting is sufficient. A decision with a normal majority of votes.

A categorized premium depends on an objective distribution key (based on seniority, grade, function). Consequently, the premium differs for each employee category. Through a company collective labor agreement or an accession agreement.

Social contributions exemption

The employer is exempt from social contributions on these premiums, since they are not considered as salary. The employee should however pay a solidarity contribution of 13,07%.

Personal income tax exemption

The premium is exempt from personal income tax. However, the premium is subject to a 7% liberation tax.

In the hands of the employer the profit premium is not deducted for income tax purposes, since it is considered as disallowed expenses. The income tax rate for tax year 2019 amounts to 29,58%.

Fines

In case the profit premium rules are not followed, penal fines of 400€ up to 4.000€ or administrative fines of 200€ up to 2.000€ can be imposed (sanction level 2 in the Social Penal Code). To be multiplied with the number of employees involved.

Closing financial year at the earliest on 30 September 2017

The profit premium can be granted for the first time based on the profit of a financial year which closed at the earliest on 30 September 2017.

Not to be confused with bonus plans

Next to this new scheme the non-recurring performance supported bonus based on CLA n° 90 (the so-called bonus plans) remains in place. This is a tax friendly bonus for all employees or group(s) of employees based on previously determined collective targets. It takes some administrative work to introduce this.

The social security authorities do not consider the bonus as salary, up to a gross amount of 3.3130€ for 2018: 2.880€ net amount + solidarity contribution of 13,07% per calendar year and per employee. In the hands of the employer the actual benefits granted are subject to a special social security contribution of 33%.

For tax purposes the bonus is tax exempt up to 2.880€ net amount in 2018, per calendar year and per employee.

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