

*In this issue of HR Newsletter we update you on news about Czech legislation; we continue the series on the EU forms, cover some of your common questions and also have a closer look at the Pension sheets agenda and the possibility of recovering overpayments on insurance.*

CA TEAM

## News

### Maternity and nursing benefits on the original level

From 1 June 2010 the Amendment to Act No. 187/2006 Coll., on Sickness Insurance, becomes effective, which contains two long awaited changes:

1. The amount of maternity benefit has been put back to the level applicable prior to 1 January 2010.
2. The guard/unpaid period of 3 days is cancelled for nursing benefit purposes.

The change is applicable retrospectively from the beginning of the year and the difference in the maternity benefits incurred will be paid to the persons entitled in the form of a supplement.

### Envelopes for attending physicians

Effective from 1 August 2010, doctors will be paid for postage for sending of the sickness notes when using envelopes. Postage will be paid by the Social Security Administration.

### Unemployment rate

In the period from January to April the unemployment rate has fluctuated between 9.8 and 9.2%, representing almost 600,000 people.

### Constitutional court decision

The constitutional court decided to abolish § 15 of the Act on Pension Insurance. The court explained that § 15 creates a discrepancy between the rate of contributions into the insurance system, level of income and the amount of pension benefit granted for some insured persons. Considering the complexity of the issue and the upcoming reform of retirement pension system, the change will only takes effect in September 2011.

## From legislation

### Contribution to support the employment of disabled persons

From 1 July 2010 there is a change to Act No. 435/2004 Coll., on employment. For the purposes of determination of contribution to the wage cost, costs actually spent are reduced by the amount corresponding to the amount of wage provided in-kind.

### Further issued in the collection of law...

- ❖ Amendment to government Decree No. 515/2004 Coll., on material support for the creation of new jobs and material support for retraining or training of employees within investment incentives; Effective date: April 2010
- ❖ Communication of the Ministry of Labour and Social Affairs about the amount applicable for determining the total amount of wage entitlement paid per employee under the Act No. 118/2000 Coll., on the protection of employees in the case of employer's insolvency; Effective date: from May 2010 to April 2011
- ❖ Communication of the Ministry of Labour and Social Affairs, which declares the amount of 50% of the average monthly wage in the national economy for the purpose of subsistence minimum and the amount of 50% and 25% of the average monthly wage for the purposes of state social assistance; Effective date: July 2010

### News from Parliament

The Chamber of Deputies is currently dealing with:

- ❖ continues dealing with two proposals for the Labour Code amendment regarding cancellation of the guard (unpaid) period in case of sickness;
- ❖ and dealing with proposal for maximum social and health security base cancellation

This newsletter is intended to keep clients and friends of Contract Administration generally informed of current employment related issues in Czech Republic. It is not intended to give advice. Readers are recommended to take formal advice before contemplating any decision or action related to any item of information appearing in this newsletter.

## From legislation

### EU forms (2.) – Type E100

Generally the forms of the type E100 are instruments to prove the competence of the legislation within EU and are instruments for applying the principles of unified procedure in the field of insurance. The so-called coordination rules of the EU include the principle that each EU citizen can be socially insured in one EU country only, even though the work is performed in several EU countries. "Insurance" here means sickness insurance, pension insurance, accident insurance, health insurance, unemployment insurance and insurance for the provision of family and funeral benefits.

However there are a few exceptions from the general rule that an employee is socially insured in the country where the work is performed. These are E100 forms, which are connected with applicability of such exceptions. Different treatment is possible in case of secondment of an employee; employees working at the same time in several EU countries for the same employer; and employees working at the same time in several EU countries for several different employers.

Forms E101 and E102 can be considered as the most common of this type.

- ❖ **Form E101** – certificate on the applicability of legislation - is a form which each person who performs work in one country and is insured in another country must have.

- ♦ E101 form may be issued upon the application of an employee using the Social Security Administration form „Žádost zaměstnance o vystavení formuláře E101 při současném výkonu práce ve dvou nebo více členských státech EU/EHP“ in a case of permanent work performance abroad in two or more EU countries at the same time. The place of insurance is then governed by the place of the employee residence,

or otherwise by the employer's registered office, if the employee does not reside in any of countries where he works.

- ♦ In case of a secondment the employer is to apply for E101 certificate using a form „**Žádost zaměstnavatele o vystavení tiskopisu E101 za účelem vyslání zaměstnance**“. The exception, where the place of insurance is not the place there the work is performed, is only possible, where the secondment is not intended to last more than 12 months, otherwise the employee is from the first day insured in the country where he has been seconded and performs the work. Also business trips are considered as secondments for this purpose.
- ❖ **Form E102** – is a application for exception if period of secondment is to be longer that 1 year, but 5 years maximum.

## Your inquiries...

### 'When will the underpayments on maternity benefits be settled and is there a need to apply individually?'

Parents who were underpaid the maternity benefits in the period from 1 January to 30 May 2010, will be compensated automatically. However the rules and terms of compensation have not been set. Initial information says that the pay outs will start in October this year. We will keep you updated.

### 'Is a father entitled for a paid leave in respect of childbirth; if so, for how many days?'

The birth of a child is included in the range of important personal obstacles to work on the side of an employee, where an employee is entitled for a paid leave for the time required for transporting his wife (partner) to a medical facility and back home; and further for an unpaid leave to participate in the birth. The legislation does not stipulate any further entitlement to time off work.

## Issues affecting you ...?

### Pension sheets

The administration of the pension sheets („ELDP“, the Czech abbreviation) is one of the employers' obligations imposed by an Act on the organization and pursuance of the social security. The employer must keep the ELDP for each person involved in the pension insurance (hereinafter referred to as „insuree“) always for particular calendar year, or part thereof, if the gainful activity, which establishes the participation in the pension insurance, begins, or finishes in that calendar year. An ELDP is kept also for pensioners who have not reached the retirement age yet (a so-called beneficiary of early retirement pension who is not entitled to payment of the retirement pension if they begin a new employment) and from the year 2009 also for the beneficiary of retirement pension, who is gainful after having reached retirement age, if this person participates or, any time in the past, has participated in pension insurance abroad. From 1 January 2010, with regard to the change of legal regulation in the relation to the entitlement for pensions increase for the time of gainful activity even if retirement pension is paid out at the same time, it is necessary to keep ELDP for ALL beneficiaries of retirement pension.

- ❖ Pension sheet should be completed:
  - ♦ After the year end closing (once the wage lists are closed), by no later than 30 April of the following calendar year if the gainful activity lasts as at 31 December;
  - ♦ Within one month after the final income settlement in case of termination of the participation in pension insurance before 31 December; by no later than 31 January of the following calendar year.
- ❖ Employer submits the ELDP to Czech Social Security Administration through its local branches in whose area the employer is registered:

- ♦ Within 30 days (from ELDP completion, resp. from employer's dissolution)
- ♦ Within 8 days (from the Social Security Administration request).

### Overpayment on insurance

Maximum basis of assessment was CZK 1,130,640 in 2009. In case the employee has reached this maximum at one employer during 2009 then he/she has not longer paid social and health insurance from the income exceeding this maximum. No overpayment has arisen.

If an employee has gained income at more employers during the year (e. g. due to several employments, function in the board of directors or supervisory board etc., paid function in civil association, community of housing units owners, etc.), and the summary of all these basis of assessments from which the social and health insurance was paid exceeds the amount of CZK 1,130,640 for 2009, the employee is eligible to refund of overpayment. The overpayment on social security is 6,5 % from the amount exceeding the maximum basis, on health insurance it is 4,5 % from the amount exceeding the maximum basis.

The employee has to apply for the insurance overpayment refund. Health Insurance Offices issued a specific application form for this purpose „Žádost zaměstnance o vrácení přeplatku na pojistném za rok 2009“ (available on web site of the local Health Insurance Office). Written request has to be submitted at respective Social Security Office, resp. Health Insurance Office, together with the confirmation from all employers on assessments calculated and insurance paid. If the employee has changed the Health Insurance Office during the year, it is necessary to submit the application form to both offices. The application can be submitted after the end of 2009, until 31 December 2014 at the latest.

*If you would have some questions to the payroll or HR agenda please ask! We will be pleased to contact you.*

*The most popular questions and the answers to them will be published in the next HR Newsletters.*

*Please contact us on [alena.vavrova@ca-staff.eu](mailto:alena.vavrova@ca-staff.eu).*

This newsletter is intended to keep clients and friends of Contract Administration generally informed of current employment related issues in Czech Republic. It is not intended to give advice. Readers are recommended to take formal advice before contemplating any decision or action related to any item of information appearing in this newsletter.