

Information sheet on the social insurance and fiscal treatment of additional remunerations

Income including non-cash benefits and benefits in kind trainees receive due to or in connection with their training is basically taxable wage and pay subject to social insurance contributions. This also applies if these payments are granted by third parties in the context of a training or if, although they are formally based on a secondary activity, their content is related to training.

The taxation and payment of insurance contributions with regard to the additional remuneration, non-cash benefits and benefits in kind (additional remunerations) paid by the trainers to the trainees during their training must be ensured. For this purpose, it is necessary that the trainers inform the Dresden Higher Regional Court when and how much additional remuneration they pay, whether it is a regular or a nonrecurring remuneration and, in the case of a regular remuneration, what period the remuneration is paid for. Trainers must reimburse the employer's social security contributions for the additional remuneration to the Free State of Saxony. The Dresden Higher Regional Court will request the corresponding reimbursement amounts from the respective trainers.

The State Tax and Finance Office is responsible for determining the amount of the employer's contributions levied upon the additional remuneration as well as the other social insurance and fiscal treatment of the additional remuneration. The information to be provided by the trainers is therefore forwarded there by the Higher Regional Court.

The administrative expense with regard to the approximately 240 trainee lawyers who are regularly in the law offices and serve elective training stages at the same time must be kept within organisationally reasonable limits. Therefore, it is helpful to communicate the amount of the additional remunerations, non-cash benefits and benefits in kind using the form provided for this purpose, if possible before the beginning of the training. If additional remunerations not yet reported are granted in the assignment period already in progress for the first time, this must be reported immediately after conclusion of the remuneration agreement using the form.

Furthermore, as a rule, the additional remuneration must be granted as a monthly unchanged amount or a nonrecurring payment covering the entire training period. The differentiation between regular and nonrecurring payment contained in the abovementioned form is necessary as, for the purpose of the calculation of contributions, regular payments, i. e. remunerations for the work in a determinable settlement period, must be assigned to the month in which the work is performed, whereas a nonrecurring payment which cannot be assigned to a temporally determinable work, is usually assigned to the month of payment. As far as regular pay is paid in one sum for several settlement periods (months), it has to be decided to what extent the payment is determined on a pro rata basis for which month. The classification as regular or nonrecurring payment depends on the individual agreements on the basis of which the services are provided. The decision on this must be made by the trainer paying the additional remuneration; in cases of doubt, the responsible health insurance company will assist you with the correct assessment of the payment. Since the trainee emoluments and the additional remunerations are added up in order to determine the employer's and employee's contributions, additional remunerations must also be stated and are subject to social security contributions if they are of a negligible value themselves.

For the additional remuneration, too, the income tax amounts and the employee's contributions to social security are deducted from the trainee emoluments. If the trainee emoluments are insufficient for the retention of deductions, the trainee will be obliged to reimburse the shortfall.