



14th of February 2022

## Russian Legislation Update

### ACCOUNTING

#### Ministry of Finance clarifies the taxation issue related to compensation for the equipment use in remote work

Remote employees are entitled to compensation for using in work their personal or rented equipment, software, information security tools, etc. The financial specialists state:

- The above payments are not subject to personal income tax or contributions in the amount specified in the collective agreement, local regulations, labor contract or supplementary agreement to the labor contract;
- These payments are included in the income tax expenses.

The amount of compensation shall correspond to economically reasonable costs for the use of equipment and communication services. The employee shall provide copies of supporting documents.

Document: RF Ministry of Finance letter #03-04-06/263 dated January 11, 2022

#### Updated form of VAT return for 2022, Q1

The Federal Tax Service has approved the amendments to the VAT reporting form, including the filling procedure and format of electronic submission.

The innovations include the following:

- New lines 055 and 056 have appeared in Section 1, where the basis code and tax amount of the VAT refund shall be indicated for application procedure;
- These codes and the regulations on their treatment were added to the declaration filling procedure.

Document: RF Tax Service order #ED-7-3/1149 dated December 24, 2021

## **PAYROLL AND HR RECORDS KEEPING**

### Rostrud clarification on disciplining an employee who has not presented a military ID

If a new employee has not presented a military ID, it is considered a disciplinary offense. In this case, the employer has the right to reprimand the employee. Such clarifications were given by the Rostrud's experts having considered a situation where a newcomer promised to bring a military ID later, but it turned out that the document had been lost. At the same time, the reprimand does not relieve the employee from the obligation to contact the military commissariat, restore the document and present it to the HR specialist.

### Ministry of Labor recommendation to transfer the maximum employees to remote work

Russian employers are advised to transfer the maximum number of the staff to a remote work due to rising cases of coronavirus. This was stated by the press service of the Ministry of Labor.

The authorities have specified that the employer on its own determines the number of employees who can be transferred to the remote work, based on the company's specifics.

### List of income for withholding alimony has been expanded

The Russian Government Decree #1908 of November 2, 2021 has approved an updated list of wages and other incomes approached for alimony deduction. It has been applied since November 11, 2021.

The Ministry of Finance emphasizes that alimony shall now be withheld including personal income tax, which is returned to the employee when a tax deduction is provided through the employer.

Document: RF Ministry of Finance letter # 03-04-05/107586 dated December 29, 2021

## Secured minimum income for debtors in enforcement proceedings

From February 1, 2022 an individual (debtor in enforcement proceedings) has got the right to file an application to the court bailiff demanding maintaining a monthly income in amount of the subsistence minimum. If a citizen has dependents, he can ask the court to save a larger amount from recovery.

If the application is correct, the bailiff shall record the need to save income in the decision. Banks shall be required to comply with this requirement, except the cases when a citizen recovers, for example, alimony or damages from a crime.

The amount of the subsistence minimum also depends on the Russian region, but it is not less than the subsistence minimum for the able-bodied population in Russia as a whole (now it is 13,793 rubles).

Document: RF Federal law #234-FZ dated June 29, 2021

## Establishment of the Social Fund in 2023

From January 1, 2023, the Pension Fund of Russia (PFR) and the Social Insurance Fund (FSS) are projected to reorganize into the Social Fund. It will account citizens all social benefits, including social pensions, benefits for temporary disability and compensations in case of an accident.

It is projected to introduce a single tariff for contributions so that employers can pay them as one payment. The Treasury of the Russian Federation will divide the payments by types of social insurance. The income crediting standards on contributions to extra-budgetary funds will be fixed in the Budget Code of the Russian Federation.

The reporting volume will reduce. There will be introduced a monthly reporting to the Social Fund. A single form will combine SZV-M, SZV-STAZH, DSV-3, SZV-TD. In addition, it will include data from 4-FSS, as well as the information on income and assessed contributions. The form RSV will still be submitted to the Tax Authority, but Section 3 will be excluded from calculation.

The list of insured persons will be defined. Sick leave certificates will be issued to the people who work not only under labor contracts, but also under civil law contracts.

A single Data Base for pension and social insurance will be introduced. Preferential categories of payers will be combined into 3 groups.

Due to innovations, the provisions of the Civil Code of the Russian Federation, the Labor Code of the Russian Federation, the Code of Administrative Offenses of the Russian

Federation and other laws will be amended, in particular:

- Law on Personalized Accounting;
- Law on Insurance against Accidents;
- Law on Guarantees for Employees of the Far North and Equivalent Areas;
- Law on Allowances for Citizens with Children.

Documents:

- Draft federal law 'On the state non-budgetary fund Pension and Social Insurance Fund of the Russian Federation'
- Draft federal law (amendments to the RF BC)
- Draft federal law (amendments to the RF TC)
- Draft federal law (amendments to the RF CC)
- Draft federal law (amendments to the RF LC)
- Draft federal law (amendments to the RF AOC)
- Draft federal law (amendments to single laws of the RF)
- Draft federal law (amendments to single laws of the RF)

## Indexation of social payments from February 1, 2022

The Government will readjust benefits by 1.084 (8.4%). For example, the following benefits will be increased:

- Minimum monthly allowance for childcare;
- Lump sum allowance for a childbirth;
- Maximum amount of lump sum and monthly payments due to disability in case of injury at work;
- Social payments to Chernobyl survivors;
- Maternal capital.

Document: RF Government decree #57 dated January 27, 2022

### **LABOR LEGISLATION**

## Moscow employers have to keep part of the staff works remotely until April 1, 2022

The Mayor of Moscow has extended until April 1, 2022 inclusive the obligatory transfer at least 30% of the staff to remote work. These include people over 60 years of age and those who have diseases, determined by the list of the Moscow Department of Health.

Document: The Mayor of Moscow order #2-UM dated January 18, 2022

## Rostrud clarification on employees' attraction to work on weekends and holidays

In particular, the following important provisions need attention:

- Overtime payment for work on weekend or non-working holiday is not subject to re-indexation, as the employee has been already paid double;
- An employee who has worked less than 8 hours on weekend or non-working holiday shall get a full day-off.

In addition, cases are defined when it is possible to attract employees to work on weekend and holiday without their consent, and the procedure on involving workers in creative professions in overtime work is established.

The report also represent the special aspects of the shift work and it is noted that if replacement of workers takes place not within 24 hours (for example, a day after three), then it is not the shift work.

Rostrud, among other things, has clarified how to review the shift schedule approved at the enterprise for compliance with standard working hours.

Document: Rostrud Report as of 2021, Q4

## Judicial practice: The Second Cassation Court of General Jurisdiction has clarified the case when an employee's statement is not enough upon dismissal by agreement of the parties

A labor contract with an employee was terminated by agreement of the parties. The employee challenged the dismissal: he was forced to write a dismissal letter; a written agreement was not drawn up with him.

The Preobrazhensky District Court of Moscow and the Judicial Collegium for Civil Cases of the Moscow City Court sided with the company. The dismissal letter of the employee and resolution of the employer on it confirmed that the parties had reached an agreement on dismissal.

The Second Cassation Court of General Jurisdiction did not agree with this decision. Upon dismissal on this basis, the parties shall not only agree to terminate the labor contract, but also understand the moment when the agreement was concluded and its form.

The case was sent for retrial. If it is established that the employee was forced to leave, the dismissal may be declared illegal.

Since the practice on the termination of a labor contract is ambiguous, it is better to draw up an agreement as a separate document. In such situations, courts often take the side of employers (Decision #88-8244/2020 of the Eighth Court of Cassation of General Jurisdiction dated May 14, 2020 in case #2-950/2019, Decision of the Sixth Court of Cassation of General Jurisdiction dated March 18, 2021 in case #88-4262/2021).

However, it also happens when the court indicates that the parties have not agreed if they have not drawn up an agreement (Determination of the First Cassation Court of General Jurisdiction dated April 19, 2021 in case #88-7286/2021, 2-1712/2020).

Document: Decision of The Second Cassation Court of General Jurisdiction #88-20138/2021 dated September 7, 2021

## Court practice: The Eighth Court of Cassation of General Jurisdiction recognized the dismissal of an employee legal: the employee hid that he took a sick certificate on the day of dismissal

The authorized body of the company decided to terminate the labor contract with the director. The latter got acquainted with the order, received a workbook, and then issued a sick certificate. The dismissal was not canceled, so the former director applied to the court.

The Leninsky District Court of Tomsk, the Judicial Collegium for Civil Cases of the Tomsk Regional Court, and the Eighth Court of Cassation of General Jurisdiction acknowledged that the labor contract was terminated legally.

Rejecting the arguments of the former employee that he was dismissed during a period of temporary incapacity for work, the Leninsky District Court of Tomsk concluded that the dismissal was made without violating the current legislation, since the employer had no information about temporary incapacity for work by the time when the order to terminate the labor contract was issued, the order to terminate the labor contract was issued and announced to the former employee before he applied to the medical institution that issued the sick certificate.

Document: Decision of The Eighth Cassation Court of General Jurisdiction #88-21864/2021 dated December 9, 2021

## Court practice: The Constitutional Court clarified the procedure for dismissal of employees whose duties were outsourced

A company delivered some functions of a structural unit to a third party. Previously, a staff member fulfilled them. The employee was notified of the job change and offered vacancies

in branches in other areas. The employee did not agree, and he was dismissed due to his refusal to work in new terms.

He challenged the actions of the company, but the Olenegorsk City Court of the Murmansk Region, the Judicial Collegium for Civil Cases of the Murmansk Regional Court, and the Judicial Collegium for Civil Cases of the Third Court of Cassation of General Jurisdiction recognized them as legal.

The case was submitted to the Constitutional Court, which established that after some types of work transfer to third parties, the possibility of changing the organizational or technological conditions of these works disappears.

In such a situation, the employee may be offered vacancies in separate structural unit in other areas and transferred there if he agrees. If he has refused to move and cannot be provided with other job, then he can be dismissed on ground of redundancy.

Document: Decision of Constitutional Court #3-P dated January 20, 2022

## MIGRATION LEGISLATION

### Conclusion and termination of a labor contracts with foreigners may be notified about through the State Services portal

Using the new service Notifications on Labor Migrants at the State Services portal, you can inform the Ministry of Internal Affairs:

- On conclusion and termination of a labor contract with a foreigner;
- On obligations to pay salaries to the highly qualified foreign specialists.

The form of the notification shall be filled out on the portal and signed with an enhanced qualified ES.

Document: Data of RF Ministry of Digital Development, Communications and Mass Media dated January 17, 2022 (<https://digital.gov.ru/ru/events/41409/>)

### Validity period of medical examination documents for foreign citizens

The Order of the Ministry of Health of Russia #1079n dated November 19, 2021 has approved the Procedure for conducting a medical examination, which will enter into force on March 1, 2022. The validity for the documents specified in the order provides for the period of three months of their transfer to the territorial bodies of internal affairs and means no need to undergo an examination once every three months.

A similar rule is provided for in the Procedure for Confirming the Presence or Absence of Infectious Diseases, valid until March 1, 2022 (Order of the Ministry of Health of Russia #384n dated June 29, 2015).

Document: Information of the Ministry of Health of Russia 'The Russian Ministry of Health has clarified the procedure for medical examinations for foreigners'

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