

PIT and NSI exemption for staff catering costs (1/6/17)

Amendments to the Personal Income Tax (PIT) Act that were adopted on 23 November 2016 list criteria to be met by companies wishing to claim exemptions from PIT and national social insurance (NSI) contributions on staff catering costs of up to €480 a year. This article explores the new rules, and the VAT and CIT treatment of staff catering expenses.

Section 8(15) of the PIT Act states that any staff catering expenses defined in a collective agreement may be excluded from the taxpayer's income subject to salary tax as long as such expenses don't exceed €480 a year (€40 a month on average) and the employer meets the following criteria:

- 1) catering expenses paid by the employer for all employees don't exceed 5% of the employer's total gross salary budget for the year;
- 2) at least six people are employed;
- 3) the employer doesn't have overdue taxes or duties exceeding €150 on 15 December in the preceding tax year according to the database of debtors of taxes and duties administered by the SRS;
- 4) the employer hasn't been found guilty of any of the offences listed in section 8(15)(4) of the PIT Act in the last two tax years by a decision of a competent institution or court that has taken effect with no appeal;
- 5) the employer traded for at least one full calendar year before the tax year in which the exemption is first claimed; and
- 6) the employer hasn't announced insolvency, hasn't suspended operations, and isn't going into liquidation.

Section 8(16) of the PIT Act states that if the employer is a group company and the terms of the collective agreement cover the entire group, the criterion mentioned in section 8(15)(5) applies to all members of the group. Accordingly, if at least one of the companies has traded for less than a calendar year, then none of them is eligible for an exemption according to the current version of the amendments.

An employer that no longer meets any of the criteria is eligible for an exemption from the beginning of the tax year until the month in which the criteria were last met (in proportion to the number of months).

If catering expenses overrun the statutory limit, then PIT and NSI must be charged on the overrun.

We note that it is not possible to conclude from the current version of the amendments that an exemption would be available if the employer were to pay the employee an extra €40 a month towards catering costs.

The accounting treatment of the exemption

1. The extra €40 is added to the employee's salary, and €40 relief claimed in the tax calculation.
2. Salary is paid to the employee after deducting the extra €40. The employer's statement shows the salary, including the extra amount. A summary of amounts paid to the individual, which must be filed once a year, shows the total extras as both the employee's revenue and relief (non-taxable income).

VAT and CIT treatment

This €40 exemption includes VAT because the input VAT appearing on the catering service provider's invoice isn't deductible.

The CIT Act isn't clear about whether staff catering expenses are part of the employer's business expenses for CIT purposes. Since any expenses traceable to individuals are subject to PIT and NSI and are part of the employer's business expenses for CIT purposes, we find that an exemption should be available. This question will be important when it comes to preparing the CIT return for 2017, so watch for updates.