

Documents and payments on termination of employment (3/30/17)

As we are now transitioning to electronic documentation, what documents is the employer required to issue when employment is terminated? And what payments are due to the employee when employment is terminated by either party giving notice?

How to document termination of employment

Termination can be based on a notice given by the employee, one given by the employer, a redundancy, or other statutory grounds.

Termination of employment should be covered by the following documents:

1. a notice of termination from the employee or the employer,
2. an agreement,
3. a statement, and
4. a summary of amounts paid to individuals.

The tax book

With all payroll tax books available only in electronic form since 1 June 2014, the employee's payroll tax book can be accessed by both parties through the Electronic Declaration System (EDS). The employer is not required to carry out any acts or make any entries. It's the employee's responsibility to deal with the information appearing in their payroll tax book.

Paying money due to the employee

When an employee is dismissed, all amounts that are due to them from the employer, such as outstanding wages, compensation for unclaimed vacation, and severance pay, should be paid on the day of dismissal. If the employee did no work on the day of dismissal, all the amounts due should be paid no later than the next day after the employee asked for a calculation.

Severance pay

The Labour Code states that unless a collective agreement or the contract of employment specifies a larger severance pay, the amount the employer is required to give the employee equals –

1. one month's average earnings if the employee has worked for the employer less than five years;
2. two months' average earnings if the employee has worked for the employer between five and ten years;
3. three months' average earnings if the employee has worked for the employer between 10 and 20 years;
4. four months' average earnings if the employee has worked for the employer more than 20 years.

Severance pay is due if –

- the employee lacks the skills needed to do the agreed work;
- the employee is unable to do the agreed work for health reasons certified by a physician;

- an employee who was doing this work earlier has been reinstated;
- the number of employees is being reduced;
- the employer is going into liquidation;
- the employee does not do the work for more than six months due to temporary incapacity if their incapacity is uninterrupted, or for one year over a three-year period if their incapacity is intermittent, excluding maternity leave and any period of incapacity resulting from an accident at work caused by working environment factors or an occupational disease.

Payment for restricting competition

Under section 84 of the Labour Code, an agreement between the parties to restrict the employee's professional activity (competition) after terminating their employment is permitted only if that agreement has the following characteristics:

1. it aims to protect the employer from the employee's professional activity capable of competing with the employer's business;
2. the restriction is up to two years counting from the date of termination;
3. for the duration of the restriction the employer is required by the agreement to pay an appropriate monthly remuneration for complying with the restriction, which is considered the employee's taxable income subject to personal income tax (PIT) and mandatory national social insurance (NSI) contributions.

So the employer continues regular payments to the employee for complying with the restriction after termination. These payments attract PIT/NSI and should be reported to the tax authorities through the EDS.