Implementation of minimum NSI income is (not?) approaching 1/23/21

PwC senior tax associate
Madara Hmelevska

PwC Tax Director and Pan-Baltic People & Organisation Leader
Irena Arbidane

As the vacation season is approaching, so is the implementation of the controversial minimum income subject to mandatory national social insurance ("NSI") contributions, which might affect many companies from 1 July 2021. On 24 May, however, the Parliamentary Presidium presented proposals for amending the NSI Act to a committee, urging a deferral of the effective date of the earlier amendments. This article describes the basic principles for applying the minimum NSI income and offers practical examples in case the bill is not approved and the new rules come into force from 1 July.

Basic principles

One of the aims of introducing minimum NSI contributions is to ensure a sustainable social pension insurance policy, considering the weaknesses in this area highlighted by the Covid-19 crisis, and to prevent various tax regimes from being exploited for optimisation purposes.

The concept of minimum NSI income essentially provides for adopting a statutory minimum amount on which full NSI contributions are due even if the person's actual income for the period does not reach that level. The minimum NSI income is also an incentive for employers to provide workers with competitive remuneration and to cut the cash-in-hand wage levels in the low-paid sectors.

Amendments to the NSI Act that were passed on 27 November 2020 provide that the minimum NSI income should be assessed on a quarterly basis and the quarterly income is three minimum monthly salaries, i.e. EUR 1,500 according to the minimum wage for 2021.

In practice:

1. If a worker's income does not reach the minimum NSI income threshold, then minimum contributions must be paid on the quarterly threshold regardless of the actual income level;
2. If the remuneration actually received exceeds the minimum NSI income, there is no further NSI to pay, i.e. the contributions are computed under the general procedure as before.

The minimum threshold remains unchanged if a person works for one or more employers, including microbusiness tax payer's employees and self-employed persons. The person's entire income is added up to determine whether the actual income reaches or exceeds the minimum threshold. So, if the person has multiple employers, the income is added up quarterly and the minimum is set by splitting pro rata between the employers.

It is important to remember that the minimum contributions are the employer's cost, but the employee part of NSI is also taken into account.

Procedures and time limits

Any NSI contributions the employer and the self-employed have to pay additionally are calculated by the NSI Agency within three months after the end of the quarter and notified to the State Revenue Service ("SRS") by the 20th day of the third month. Based on the minimum threshold for the year, the agency will recalculate the minimum contributions within three months after the end of the calendar year and notify the SRS of any minimum contributions the employer and the self-employed have overpaid.

The SRS will notify the employer and the self-employed of the assessed minimum contributions via EDS within one working day. The employer is liable to pay the minimum contributions for the employees by the 23rd day of the third month after receiving a notice. If any further contributions are due, the employer must pay them out of his own funds.

Exclusions

The NSI Act also lays down exclusions when no minimum contributions are due:

- for a convict employed while serving a custodial sentence;
- for a person who has reached the age eligible for a state old-age pension or has been granted one (including early), and for a person with a Class 1 or 2 disability;
- for a person whose own or spouse's wage tax book carries a child less than three years old or a minor child duly recognised as a person with a disability;
- for a person whose own or spouse's wage tax book carries three or more children up to 18 years old or up to 24 years old, at least one of whom is less than 7 years old, while the child pursues general, vocational, higher or special education;
- for a person that provides a state-funded companion or assistant service or a local authority-funded care service or a care service funded by an EU policy instruments project for a child up to 18 years old;
- for a person up to 24 years old attending a general, vocational, higher education (full-time) or special education establishment, except any period the person has interrupted their education or studies;
- for a person working for an employer entered on the Register of Social Service Providers, and for a person at risk of social exclusion and working for an employer with social enterprise status;
- for any period a self-employed has stopped trading.

And no minimum threshold applies to a seasonal farm workers' income tax payer, a Latvian employee with a foreign employer and a foreign employee with a foreign employer.

If a self-employed person, who is not an employee at the same time, forecasts that the quarterly threshold will not be reached, the person has to file an application with the SRS on their EDS profile by the 15th day of the first month of the quarter about the income expected in it, to stop the NSI Agency assessing minimum contributions. So contributions would be paid on the business income actually received, which may also be treated as an exceptional case. However, if notification is not done, the NSI Agency will assess minimum contributions for 10% state pension insurance, which the self-employed, including a microbusiness tax payer and a recipient of royalties, must pay.

Practical examples

Period	One employer	One employer	Two employers	
July	EUR 400	EUR 400	EUR 300	EUR 200
August	EUR 610	EUR 410	EUR 300	EUR 150
September	EUR 500	EUR 500	EUR 300	EUR 100
Quarterly total	EUR 1510	EUR 1,310	EUR 1,350	
Comment	No further contribution to pay	The NSI Agency will calculate an extra contribution and notify the SRS. Base: 1,500 – 1,310 = EUR 190 NSI: 190 x 34.09% = EUR 64.77	The NSI Agency will calculate an extra contribution and notify the SRS. This is split pro rata: 67% and 33% of the quarterly pay. Base: 1,500 – 1,350 = EUR 150 NSI: 150 x 34.09% = EUR 51.14, to be split between the two employers: EUR 34.26 and EUR 16.88	
		NB! It is still unclear whether additional NSI contributions need reporting. According to the SRS, there are currently no plans for adjusting the employer statements for previous periods, given a lag of three months.		

As stated above, on 24 May the Parliamentary Presidium suggested that the proposals for amending the NSI Act should be presented to the Social and Labour Committee for debate in order to determine that the minimum NSI income rule is not coming into force until 1 January 2024. We will be monitoring how the bill progresses to find out whether these controversial amendments, likely to affect the business of many small and medium companies, are taking effect this year or three years later.