

LT in Focus

Changes to payment periods and tax accounting for awards and bonuses

Dear colleagues,

We would like to draw your attention to significant changes to the effective legislation and enforcement practices in applying the law related to the payment and tax accounting of bonuses.

These changes shall apply equally to "normal" awards envisaged under bonus plans or labour agreements and paid in accordance with an order of the director of a legal entity and to bonuses paid as part of staff motivation programmes.

Please note that the current procedure for payments of earnings, including the payment periods, is determined by the employer or stipulated in the agreement between the employer and its employee. Thus, earnings shall be paid no less than once every fortnight on the days established by an internal labour order, collective agreement or labour agreement (Article 136 of the Russian Labour Code).

Additionally, in accordance with the Labour Code, any monetary or non-monetary awards, bonuses or other incentive payments are considered earnings payable.

[Changes to payment periods for earnings](#)

[Increased liability for missing payment periods for earnings](#)

[Changes to enforcement practices in applying the law related to accounting for tax purposes](#)

[Contacts](#)

Changes to payment periods

The amended Article 136 of the Labour code enters into force on 3 October 2016, obligating employers to make earnings payments no less than once every fortnight. The precise payment dates shall be established by an internal labour order, collective agreement or labour agreement, but the established date cannot be later **than 15 calendar days from the date of expiry of the period for which the earnings are accrued.**

In other words, if bonuses or awards that have been accrued for high achievements and excellent work in 2015, the corresponding award shall be paid within the period specified in the employer's internal documents (e.g. the rules for long-term employee incentives or bonus regulations), but **no later than 15 January 2016**, regardless of their provisions.

Increased liability for missing payment periods for earnings

The liability for violating the specified requirements of the labour legislation through missing or postponing payments of earnings (including bonuses or awards) has also been increased:

- Financial liability: The employer shall be obliged to pay the employee with interest in the amount of no less than 1/150 of the effective refinancing rate of the Central Bank of Russia on the outstanding amount (Article 236 of the Russian Labour Code);
- Administrative liability: Officials are subject to

a fine ranging from RUB 10,000 to 20,000 while legal entities are subject to a fine in the range of RUB 30,000 to 50,000.

If officials/legal entities were previously subject to administrative liability for similar violations, the penalty for the repeated violation will consist of a fine in the amount of RUB 20,000 to 30,000, or disqualification for one to three years for officials; and a fine of RUB 50,000 to 100,000 for legal entities (Article 5.27 of the Administrative Offences Code of the Russian Federation).

We recommend that clients carefully review their bonus programmes or regulations with regard to payment periods and accrual periods, and take these changes into account during the accrual and payments process.

We would be pleased to provide a full range of legal support to clients in adjusting internal documents and bringing them into compliance with the provisions of the law.

Changes to enforcement practices in applying the law related to accounting for tax purposes

In addition, we would like to draw your attention to the amendments to the established practice in applying the law related to the payment of bonuses and their accounting for tax purposes.

When evaluating the legal validity of accounting for awards (bonuses) for tax purposes, the tax authorities pay special attention to economic viability, and in the absence of documentary

evidence of the economic feasibility of such payments, the tax authorities will eliminate these costs and calculate corresponding additional profit tax.

The courts support the tax authorities' approach towards this issue (see Commercial Court of Moscow Region Resolution of 19 July 2016 on case No. A40-118598/2015).

Taking into account the abovementioned changes as well as recent commercial court practice, we encourage our clients to carefully consider their approaches towards fulfilling their bonus payment and tax accounting obligations.

We hope that you will find the information in this edition interesting and informative. Should you have any questions, please do not hesitate to contact us.

Best regards,

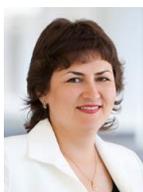
Deloitte CIS partners

Contacts

Legal services



Raisa Alexakhina
Partner
ralexakhina@deloitte.ru



Alfia Mukhamatyanova
Senior Manager
amukhamatyanova@deloitte.ru



Pavel Kovalev
Senior Manager
pkovalev@deloitte.ru

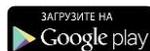


Elvira Danilova
Manager
edanilova@deloitte.ru



Anastasia Matveeva
Manager
amatveeva@deloitte.ru

TaxSmart app



deloitte.ru

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 225,000 professionals make an impact that matters, please connect with us on [Facebook](#), [LinkedIn](#), or [Twitter](#).

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.