

Law on purchasing power

Law n°2008-111 of February 8, 2008 (Official Gazette of February 9, 2008)

Circular DGT/DS/2008/46 of February 12, 2008

The Law dated February 8, 2008 introduced new provisions relating to the **buyback of rest days**, the payment of compensatory leaves, the **early release of the sums acquired under mandatory profit-sharing schemes** and the payment of an **exceptional bonus exempted from** social contributions.

1. Buyback of rest days

Employees are entitled to monetize (i.e. to transform into cash payment) their right to full or half rest days acquired under the implementation of the reduction in working time agreement or under the “forfait jours” regime (i.e. a fixed annual working time). Companies may be exempted from social contributions, subject to certain conditions.

1.1. The Buyback of RTT days^[1]

Full or half- RTT days waived by employees must be paid at the increased pay rate applied to the first worked overtime hour (usually 25% or at a lower rate if so provided for under the applicable collective bargaining agreement).

The applicable tax and social treatment depends on the date of acquisition of such full or half-RTT days:

For days acquired prior to December 31, 2007: If the request is made by the employee prior to July 31, 2008 and payment performed before September 30, 2008, the remuneration of such days is exempted from social, employer’s and employee’s contributions; it will be only subject to CSG (General Social contribution) and CRDS (Social Debt Repayment Contribution).

For days acquired between January 1, 2008 and December 31, 2009: the new overtime legislation effective since October 1, 2007 (TEPA Law) shall apply: the employees shall be exempted from tax and social contributions and the employer shall pay reduced contributions.

1.2. The buyback of rest days under the “forfait jours” regime

This new legislation applies to companies which are not concerned by provisions with respect to waiver to a certain number of rest days expressly set forth in collective bargaining agreements. This legislation is similar

to those governing the buyback of RTT days.

Rest days acquired under a “forfait jour” regime as of December 31, 2007: the employee must make a request and the remuneration of the acquired rest days must be negotiated between the company and the employee, with application of an increased pay rate of 10% minimum. If the request is made by the employee prior to July 31, 2008 and if payment is performed before September 30, 2008, the employee and the employer shall be exempted from social contributions, except CSG and CRDS.

Rest days acquired under a “forfait jour” regime between January 1, 2008 and December 31, 2009: the conditions and modalities are identical to those set forth above but the corresponding remuneration shall be subject to the rules laid down by the TEPA Law: the employee shall be exempted from tax and social contributions and the employee shall paid reduced contribution.

1.3. The buyback of compensatory leaves

The rest period granted instead of paying worked overtime hours can be converted into cash payment at the employees’ request and subject to the approval of the employer during an experimental period of two years as from January 1, 2008. The corresponding payment shall be subject to the rules governing overtime hours rule set forth in the TEPA Law.

1.4. Monetization of Time Saving Accounts

Employees may convert into cash payment the rights acquired up to December 31, 2009, to the exclusion of the rights to paid vacation. For the rights acquired as of December 2007, requested to be converted into cash payments by the employee prior July 31 and effectively paid before September 30, 2008, the employee and the company shall be exempted from social contributions (not from SCG and CRDS however). For the rights acquired as from January 1, 2008, no exemption will be applied.

2. Early release of the sums acquired under mandatory profit-sharing plan

Employee may request, prior to June **30, 2008**, the early release of the sums acquired under the mandatory profit-sharing plan implemented within their company, up to EUR 10,000 and in one single payment.

Companies must inform the employees of this possibility within two months from the publication of the Law.

3. Exceptional bonus of EUR 1,000 maximum

Companies with less than 50 employees and not subject to the obligation to implement a mandatory profit-sharing plan may grant before June 30, 2008 an exceptional bonus of EUR 1,000 maximum per employee which will be exempted from employee’s and employer’s social contributions (CSG and CRDS will however be



applied).

This payment must be provided for under an agreement entered into in the conditions governing the conclusion of agreements implementing mandatory profit-sharing plans, i.e. in a collective agreement, through an agreement with the Works Council or through an agreement approved by a two third majority vote of the employees.

This agreement may provide that the bonus is to be adjusted on the basis of the remuneration, professional qualifications, classification level, working time duration, seniority or time of presence. As usually in similar matters, this bonus may not be substituted to any other elements of remuneration to be paid by the employer under the provisions of applicable laws, collective bargaining agreement, employment contract or usage and customs.

Do not hesitate to contact our Labor and Employment Department should you wish any further information on the above.

[1] Additional rest days resulting from the adoption of the 35 hours/week legislation.

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