

Obligations to pay social security contribution and social contribution tax to be fulfilled by foreign companies not having to register according to the Hungarian legislation

1. Introduction

This information sheet is for foreign companies (henceforth: foreign employers) who are not obliged to register according to Hungarian legislation, which

- have employees in the territory of Hungary in such a legal relationship that entails insurance obligation, or
- have such employees outside the territory of Hungary who fall under the Act CXXII of 2019¹ on the basis of EC Regulation² on the coordination of social security systems or a bilateral agreement³ on social security concluded by Hungary.

2. Obligatory insurance in Hungary

The insurance relationship is created on the strength of law simultaneously with the underlying relationship.

In that context employers are subject to the obligations of

- notification (reporting),
- keeping records,
- assessment and deduction
- payment, and
- declaration of contributions.

These obligations also apply to foreign employers who employ workers in the territory of Hungary under a relationship that is subject to compulsory insurance, as well as to those foreign employers who employ workers outside the territory of Hungary, where such workers are covered by SSC by virtue of the Community regulation on the coordination of social security systems, or the bilateral social security agreement concluded by Hungary.⁴

¹ Act CXXII of 2019 on Entitlements to Social Security Benefits and on Funding These Services (henceforth: SSC).

² Regulation (EC) No 883/2004 (henceforth: EC Regulation) of the European Parliament and of the Council on the coordination of social security systems and Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for its implementation.

³ The effective bilateral agreements on social security and social policy are available on the homepage of the National Health Insurance Fund (NEAK) of Hungary www.neak.gov.hu and the NTCA website www.nav.gov.hu.

⁴ Paragraph (3) of Section 6 of SSC.

Guideline

The legislation lists item by item the legal relations subject to the insurance obligation, which are typically related to work or pursuit of an activity.⁵

However, own-right pensioners⁶ are exempt from the insurance obligation, regardless of the form of their employment. If the foreign company employs a retired person (pensioner), no social security contribution or social contribution tax is payable on the salary of the person performing the work.

Foreign companies perform the **notification** and the **payment of contributions** related to the legal relationship entailing insurance obligations as well as the obligation to **pay**⁷ and **declare** the social contribution tax through a financial representative or tax agent⁸ (henceforth: representative), and, if there is no such representative, directly by themselves.

The employee must have a tax identification code, which is necessary, among other things, to be able to fulfil the employer's obligations as well. The natural person may apply to NTCA to generate a tax identification code by submitting datasheet no. 21T34 before notifying employment and fulfilling the obligation to pay contributions. The datasheet is available at the following link:

http://nav.gov.hu/nav/letoltese/nyomtatvanykitolto_programok.

If the foreign company fulfils its contribution obligations and social contribution tax obligations directly, it must register with NTCA before the start of the insurance. At the registration, the company requests NTCA to register the entity as an employer.

If a foreign company employing a person **insured under Hungarian law** does not have a representative in Hungary to fulfil social contribution obligations and the social contribution tax obligations and does not register with NTCA as an employer either⁹, then it is the employee who shall fulfil the obligation to notify and pay social security contributions as well as the obligation to pay and declare the social contribution tax.

⁵ Section 6 of SSC.

⁶ Point 17 of Section 4 of SSC.

⁷ With a view to social contribution tax on the basis of provisions of Act LII of 2018 on Social Contribution Tax (henceforth SCT Act).

⁸ According to Act CLI of 2017 on Tax Administration and the Regulation of Tax Administration.

⁹ Whether or not the foreign company has registered with NTCA as an employer can be queried on our website www.nav.gov.hu in the menu item "Lists of taxable persons, Other organizations".

Guideline

In such a case, the employee bears the legal consequences (excluding default fines and tax penalties).

3. Registration of the foreign employer with NTCA

The foreign employer fulfils its registration obligation by asking for tax identification number using form 21T201INT. The form can be found on the website <http://www.nav.gov.hu> → *Nyomtatványkitöltő programok* → *Nyomtatványkitöltő programok* → *Egyszerű keresés/Összetett keresés (queries)*.

This form shall also be used by the foreign company to communicate the data of the person entitled to e-administration (electronic administration).

A query can be made through the NTCA website under headings „*Adatbázisok, Adóalanyok lekérdezése, Egyéb szervezetek*” via the link http://nav.gov.hu/nav/adatbazisok/adatbleker/egyebszerv/egyeb_szervezet_ek_egyszeru to check whether the foreign employer has registered at the authority.

4. Reporting of employees (notification obligation)

The foreign employer shall report (notify)

- the start of the insurance status of the employee on the first day of employment at the latest, prior to commencement of the employment,
- the termination of the insurance status and the period without working obligation and income forming the basis of contribution shall be reported to the NTCA within 8 days.

The notification shall be made on the standard form 21T1041INT, called "*Notification and change notification form for data of ensured persons employed by the employer or payer*".

The form 21T1041INT can be downloaded from the following link:

http://nav.gov.hu/nav/letoltesek/nyomtatvanykitolto_programok

5. Fulfilling the obligation to pay contributions

In order to assess the obligation to pay contribution, it is necessary that:

- the payment is based on an insurance relationship, and
- the income paid out shall be income comprising part of the contribution base.

Foreign employers are required to **assess and deduct social security contributions of 18,5%** for the insured persons they employ based on their relationship that is subject to compulsory insurance on income paid to such workers comprising part of the contribution base¹⁰.

Among others, the following are considered as income comprising part of contribution base:

- a) according to Szja tv.¹¹ income taken into consideration when calculating the tax advance base from income from self-employed or not self-employed activity being part of the consolidated tax base.
- b) by way of derogation from point a), if Hungary does not have taxing powers on the basis of international agreement, or in the lack of double taxation treaty there is no obligation to assess tax advance, then:
 - ba) the basic salary (if the work is performed under an employment contract governed by foreign law, the monthly amount of the fee specified in the contract), but at least the gross average earnings at the national level for full-time employees (HUF 401.800 in 2021) published by the Central Statistics Office for the month July of the year before the reference year, or - if the work is performed under another employment relationship - the monthly amount of the fee specified in the contract, or
 - bb) the income gained in the reference month as remuneration for activities – in case of employment the income received in the reference month – if it does not exceed any of either the amount of the basic salary (monthly amount of the fee specified in the contract) or HUF 401.800.¹²

¹⁰ Paragraph (1) of Section 87 of SSC.

¹¹ Act CXVII of 1995 on Personal Income Tax (Szja tv.) - PIT Act.

¹² Point b) of Paragraph (1) of Section 27 of SSC.

Contribution payment lower threshold

In the case of an employed¹³ person, the contribution base shall be at least 30 per cent (this amounts to HUF 48,300 in January 2021 and HUF 50,220 from February onwards) of the prevailing minimum wage¹⁴, with the proviso that if

- a) the legal relationship underlying the insurance obligation is opened or terminated during the month,
- b) the insurance relationship does not apply to the whole month pursuant to a pending legal relationship¹⁵, or
- c) the insured person is receiving sick pay, benefits for accident-related injuries during the month, or takes a leave of absence without pay for caring for a sick child below the age of twelve,

in determining the contribution payment lower threshold the calendar days provided for in the above points of a)-c) shall be disregarded.

If the circumstances specified in Paragraphs a)-c) apply only to a specific part of the calendar month, the contribution payment lower threshold shall be calculated based on one-thirtieth of the contribution base for each calendar day.

The provision set out relevant to the contribution payment lower threshold shall not apply to persons engaged in an employment relationship and

- a) receiving infant care benefits, child-care benefits, child home care benefits, adoption allowance, child-care assistance benefits, child-raising benefits, nursing allowance,
- b) students pursuing full-time course of study in a public education institution under the Act on the National Higher Education, or within the framework of full-time education arrangement, pursuing studies under the Act on Vocational Training in a vocational training institution in the framework of full-time vocational education, and students attending institutions of higher education under the Act on the National Higher Education System pursuing full-time course of study.

¹³ Point a) of Paragraph (1) of Section 6 of SSC.

¹⁴ In January 2021, it is HUF 161,000, thereafter HUF 167,400 per month.

¹⁵ Section 16 of SSC.

Guideline

If the contribution base does not actually reach the contribution lower threshold and there are no statutory exemptions, then the social security contribution charged on the difference between the actual contribution base and the contribution lower threshold shall be paid by the foreign company.

6. Obligation to pay social contribution tax

Pursuant to SCT Act, social contribution tax is payable by the payer in connection with the provision of certain income.¹⁶

The person not having permanent residence, habitual residence, or seat in Hungary (henceforth: foreign payer) is considered as payer (taxpayer) as well, if the natural person falling under Hungarian social security legislation with whom he/she has a relationship entailing tax liability works in Hungary, in another Member State falling under the EC Regulation, or in another state with which Hungary has concluded a bilateral social security agreement.

If the foreign payer fails to comply with legal obligations, then the natural person being in a relationship with the foreign payer entailing tax liability is obliged to pay taxes.

Compliance with the obligation to pay tax

As a rule, the payer has to pay social contribution tax of 15,5% after the tax base, but the taxpayer may reduce by law the payable tax by the amount of eligible tax benefits.

The tax base of social contribution tax

The income taken into consideration according to Szja tv. when calculating the tax advance base from income from self-employed or not self-employed activity paid to the natural person being in a relationship entailing tax liability with the payer is considered as the base of social contribution tax.

If Hungary does not have taxing powers on the basis of international agreement, or in the lack of double taxation treaty there is no obligation to assess tax advance, then:

- a) the basic salary (if the work is performed under an employment contract governed by foreign law, the monthly amount of the fee specified in the contract), but at least the gross average earnings at the national level for full-time employees (HUF 401.800 in 2021) published by the Central Statistics Office for the month July of the year

¹⁶ As per Act LII of 2018 on Social Contribution Tax (henceforth SCT Act).

Guideline

before the reference year, or - if the work is performed under another employment relationship - the monthly amount of the fee specified in the contract, or

- b) the income gained in the reference month as remuneration for activities – in case of employment the income received in the reference month – if it does not exceed any of either the amount of the basic salary (monthly amount of the fee specified in the contract) or HUF 401.800.

shall be considered as tax base of the social contribution tax.

In the case of insured persons having employment relationship¹⁷ the tax base is equal to the base of social security contribution.

The income which is paid (allocated) regarding such period during which insurance status existed according to the SSC also forms tax base¹⁸ regardless the payment (allocation) date.

7. Declaration, payment

The payment as well as the declaration and reporting (notification) obligation regarding social contribution tax shall be fulfilled **on a monthly basis in an electronic form before the 12th day of the month following the reference month.**

Form 2108INT to be used for declaration can be downloaded from the following link:

www.nav.gov.hu → *Nyomtatványkitöltő programok* → *Nyomtatványkitöltő programok* → *Programok részletes keresése*

If the foreign company claims a tax benefit from the social contribution tax, form 2108 shall be submitted instead of the form 2108INT and every liability regarding the employee shall be included. Namely, social security contribution deducted from the private individual shall also be declared using form 2108 besides social contribution tax and the claimed tax benefit.

The payment shall be made on a monthly basis before the 12th day of the month following the reference month via transfer or money order to

- account No. HU91100320000605581900000000 used by the NTCA to collect social security contribution deducted from insured persons

¹⁷ According to Point a) of Paragraph (1) of Section 6 of the SSC.

¹⁸ According to special rules, benefits (e.g. dividend) not directly linked with employment may also be the base of the social contribution tax. In case of such payment please contact the tax administration for further information.

Guideline

(NAV Biztosítottaktól levont társadalombiztosítási járulék beszédési számla),

- account No. HU121100320000605591200000000 used by the NTCA to collect social contribution tax (NAV Szociális hozzájárulási adó beszédési számla).

If the foreign employer claims tax benefit from the social contribution tax, then the payment shall be made according to information contained in form 2108.

If the payment is made via transfer, then the tax identification number shall be included in box “Information for the beneficiary” (“Kedvezményezettrel közlendő”) of the money order. This is needed for the NTCA to book the payment to the proper bank account.

8. E-administration (Ügyfélkapu)

Declaration and reporting obligation regarding contributions and social contribution tax shall be fulfilled through the Government Portal (<http://www.magyarorszag.hu/szuf>).

Registration is needed for e-administration. The registration shall be made by the **natural person** who will submit tax returns and reporting to the NTCA. The natural person shall contact in person the authority responsible for registering in “Ügyfélkapu” (e-administration portal), where he/she will receive a single-use activation code after presenting the personal identity document, filling in a registration form, and communicating a username and a valid e-mail account.

The registration may be initiated:

- in person at the Budapest and county level government agencies (“kormányhivatal”), district level government offices (“okmányiroda”), at the NTCA client services, at designated post offices of the Hungarian Post, and
- at diplomatic missions and consular posts of Hungary in an electronic form if the natural person has a valid personal identification document issued after 1 January 2016.

For more information on registration please consult:

<https://ugyfelkapu.gov.hu/sugo/s-regisztracio/s-elektronikus-regisztracio>

Hungarian National Tax and Customs Administration