

FISCAL, LEGAL AND ACCOUNTING ASPECTS REGARDING TELEWORK IN ROMANIA

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Abstract: *Employees and employers from Romania are familiar with teleworking, as it has been practiced for years, but it was only in 2018 that the first specific legal regulations appeared in Romania. Through this paper, I intend to highlight the main accounting, fiscal and legal aspects concerning telework. This subject is interesting, not only in the context of the pandemic, but especially in the context of the “new normal”, which will integrate telework on a superior position compared with the way it was viewed before. This aspect is also supported by the technical and technological progress, which has an increasing importance and weight regarding economic activity in general, and work relations in particular.*

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1. Introduction

Employees and employers from Romania are familiar with teleworking, as it has been practiced for years, but it was only in 2018 that the first specific legal regulations appeared in Romania. By Law no. 81/2018, telework is defined as “the form of work organization through which the employee, regularly and voluntarily, carries out tasks that are specific for the position, occupation or profession he/she has, in another place than the work place organized by the employer, at least once a month, using information and communication technology.”

The employer has the obligation to ensure the necessary means of information and communication technology and/or safe work equipment which is needed in order to carry out tasks, and the parties can establish a written agreement regarding the teleworker’s possibility to use his/her own equipment, with the specification of the use conditions (a novelty introduced by Government Emergency Ordinance 192/2020 as of November 5, 2020).

Furthermore, teleworking also includes the following situations:

- If at least for one day a month the employee works from home or from a place of business which offers him/her the necessary conditions to carry out his/her activity;

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- If the work tasks involve using information and communication technology. According to the law, telework is realized only through a common agreement between the parties and has to be expressly stipulated in the employment contract. Moreover, the teleworker, as the employee who carries out the telework is called, can do overtime through a written request and at the request of the employer. In this sense, the employment contract or the additional act (Art. 5 Law no. 81/2018) should include:

- The clear specification that the employee uses telework;
- The period (days) in which the teleworker carries out his/her activity at a work place organized by the employer;
- The place where telework will be carried out;
- The time interval within which the employer has the right to verify the teleworker's activity, as well as the detailed way in which the respective verification is to be realized;
- The manner in which the record of the working hours is to be kept during teleworking (timesheets);
- The parties' responsibilities in relation to the place where the telework is to be carried out, including those related to safety and health at work;
- The employer's obligation to ensure transportation to and from the place where telework is to be carried out, including the transport of devices used for teleworking (for example, laptop, printer etc.);
- The employer's obligation to inform the teleworker regarding the provisions of legal stipulations, of the collective agreement and/or of the internal rules of procedure concerning the protection of personal data and the teleworker's obligation to comply throughout the duration of the telework;
- The measures taken by the employer so that the teleworker is not isolated from the rest of the employees;
- The conditions under which the employer bears the expenses derived from teleworking.

2. The employee's and employer's main obligations

According to Art. 6 from Law no. 81/2018, the teleworker benefits from all the rights recognized by the law, the collective agreement and the internal rules of procedure. In addition, the employee has the following obligations:

- To carry out his/her activity according to the received training;
- To inform the employer regarding the used work equipment;
- To inform the employer regarding the places where the activity is performed;
- To use safe work equipment, which does not put his/her safety and health in danger;
- Not to change the safety and health work conditions from the places where the telework is carried out.

On the other hand, the employer has a series of obligations:

- To ensure the necessary means of information and communication technology;
- To install, verify and maintain the equipment necessary for teleworking;
- To ensure the proper conditions so that the employee receives a sufficient and adequate training in the field of safety and health at work;
- To provide transportation to and from the place where telework is carried out.

3. Fiscal novelties regarding telework activities and mini monograph of accounting entries

The amendments to Law 227/2015 – Fiscal code stipulate that the list of non-taxable income is completed with the sums given to employees who carry out telework activities in order to support utility expenses for the place where employees carry out their activity, such as electricity, heating, water and internet, and furniture and office equipment acquisitions up to the limit of 400 lei per month. In this sense, some important clarifications are necessary:

- This regulation is not mandatory, it just sets the maximum limit, which means that the sum taken into account could also be lower than 400 lei per month;
- The goal of these amounts of money is to support utility expenses for the place where employees carry out their activity, such as electricity, heating, water and internet, furniture and office equipment acquisitions;
- This financial support can only be given to those employees who carry out teleworking activities in accordance with the law;
- The limit, the manner in which it is given and the plan of this financial support should be stipulated in the employee's employment agreement or through an additional act, or through the internal rules of procedure;
- The actual sum that the employee will receive is calculated through the correlation of the limit with the number of days in a month in which the employee carried out teleworking activities;
- The employee doesn't have to present supporting documents;
- The received sums are deductible expenses for the employer and non-taxable income for the employee. Social contributions will not be calculated and taken for this revenue given to employees;
- Tax exemption for these sums is applied starting with the revenue for the month of January 2021;
- The sums given to employees under this category, even if stipulated in the employment agreement or through an additional act, are not mentioned in Revisal;
- These expenses are deductible for the employer and the employees are not obligated to pay taxes for the received sums, up to 400 de lei.
- Also, these sums will not be taken into consideration when establishing other salary rights (the calculation of bonuses or of all types of allowances).

For a smooth implementation, on the one hand, but also for the sake of transparency in the case of certain controls, the recommendation is that the maximum amount of money which can be granted should stipulated in the internal rules of procedure, as well as the award criteria and the manner in which this financial support is to be paid. The possibility and also probability that this form of work organization will expand in Romania after the pandemic is extremely high, which will determine employers to find solutions in this sense.

The paid sums, according to the provisions of Law no. 296/2020 for the amendment of the Fiscal code, should not be requested from any state authority, because they are incurred by the legal person and given to the employees who carry out teleworking activities and who assumingly had expenses of the nature of those stipulated by the law regarding the payment of utilities, internet and/or the acquisition of furniture and work equipment.

In the accounting records, the respective operation can be registered as follows:

- a) recording the sums owed for the payment of teleworkers' utilities;

6458	=	423
Other social security and welfare contributions		Other social benefits granted to employees

- b) recording the payment of the sums owed for teleworkers' utilities;

423	=	5121
Other social benefits granted to employees		Cash at bank in lei

4. Fiscal and accounting implications regarding gift tickets and monetary gifts given by employers

Monetary gifts and/or in kind, including gift tickets, given by employers represent an incentive much appreciated by employees, especially in the context of teleworking; employees appreciate the fact that employers did not stop offering these incentives. According to the law, monetary gifts and/or in kind, including gift tickets, given by employers are non-taxable in so far as their value for each person, on each occasion, does not surpass 150 lei:

- they are non-taxable for the employee (there is no 10% taxation on income);
- they are not included in the base of social contributions for pensions (there is no 25% taxation for CAS – social security contributions);
- they are not included in the base of social contributions for health (there is no 10% taxation for CASS – health insurance);

- they are not included in the base of labor insurance contributions (there is no 2.25% taxation for CAM – labor insurance).

Regarding the situations/occasions when these monetary gifts and/or in kind, including gift tickets, given by employers, can be offered, we highlight the following:

- gifts offered to employees, as well as those offered for their underage children, on Easter, Christmas and other similar holidays of other religious cults;
- gifts offered to female employees on the occasion of the International Women’s Day on the 8th of March;
- gifts offered to employees for the benefit of their underage children on the occasion of the International Children’s Day on the 1st of June.

In conclusion, the conditions for these sums not to be taxable for income, pension (CAS), health (CASS) and labor (CAM) are the following:

- the provisions concerning how they are given should be included in the employment agreement;
- they should not surpass the limit of 150 lei per employee/occasion/underage child.

To illustrate, please find below a model of accounting monograph for gift tickets:

- a) Purchasing benefits from the supplier.

%	=	401
5328 Other cash equivalents (the value of the gift tickets)		Suppliers
628 Other third party services (the commission for printing the tickets, if applicable)		
4426 Input VAT (VAT for the commission for printing the tickets)		

- b) The payment of the invoice received from the supplier.

401	=	5121
Suppliers		Cash at bank in lei

- c) Distributing the gift tickets among employees and recording their respective value.

6422	=	5328
Expenses with meal tickets granted to employees		Other cash equivalents

Monetary gifts given by employers

According to the law: “The equivalent value of tourist and/or treatment services, including transportation, during the leave of absence for employees and their families, given by the employer in line with the employment agreement, in so far as their total value does not surpass in a fiscal year the level of an average gross salary used for the establishment of the state social insurance budget for the year in which they were granted.” In this sense, the following aspects are taken into consideration:

- The average gross salary for 2020: 5,429 RON
- The average gross salary for 2021: 5,380 RON (according to the State social insurance budget law for 2021 published in the Official Journal of Romania from March 12, 2021).

Furthermore, there is a series of conditions in order for these monetary gifts not to be taxable for income, pension (CAS), health (CASS) and labor (CAM); thus, the monetary gifts should be:

- given during the leave of absence;
- stipulated by the employment agreement;
- within a certain limit (the average gross salary).

Conclusions:

In the context of the SARS-COV-19 pandemic, telework was and still is a feasible variant for carrying out economic activities, thus for the survival, maintenance and/or development of some businesses, on the one hand, but also for keeping and maintaining the jobs of employees, on the other hand.

The reality is that telework/ remote work will have a significant weight in the future also, and companies should adapt their remuneration policies and analyze the relevant benefits in this new context, those that are more valuable for their employees, but also from a fiscal point of view. A possible variant is that in which the employee receives a monthly budget and has the freedom to choose those benefits that are relevant for him/her, some having even a fiscal advantage, such as meal tickets or holiday tickets.

Taking into account the managerial implications, in the new context of the extended telework, I believe that organizations/ companies will continue to be preoccupied with the organizational aspects, internal logistics becoming more and more important, as well as the place and role of each organizational structure in the mechanism of an economic society.

Bibliography:

- [1] Business Magazin no. 782., 2021. Ce înseamnă pentru angajați lucrul remote? Businessmagazin.ro, [online] Available at < <https://www.businessmagazin.ro/actualitate/ce-inseamna-pentru-angajati-lucrul-remote-psihiolog-numarul-celor-19916543>> [Accessed February 14, 2021].
- [2] Green, N., Tappin, D., & Bentley, T., 2020. Working from home before, during and after the Covid-19 pandemic: implications for workers and organisations. *New Zealand Journal of Employment Relations*, 45(2), pp. 5-16.
- [3] Ter Hoeven, C. L., & van Zoonen, W., 2015. Flexible work designs and employee well-being: Examining the effects of resources and demands. *New Technology, Work and Employment*, 30(3), pp. 237-255.

Law no. 81/2018

Law no. 227/2015, as subsequently amended and supplemented