

A business trip paid by a third party

Essential principle of the regulation of daily allowance paid by a third party regulated in the Income Tax Act and the Business Trip Regulation is the possibility of a person to pay daily allowance for a business trip to a natural person for the benefit of itself, in situations where this natural person is not its employee.

The payment of daily allowance by a third party to a natural person must be preceded by sending that natural person to a business trip by their employer. According to the Employment Contracts Act, an employee can only be sent on a business trip by their employer, not a third party. In the sense of this special regulation, the third party is generally the person or institution receiving the person (employee or official) sent on a business trip, who is not the seconded person's employer.

If a third party wants to use the skills of an employee of the company for its own benefit, and the employer and the third party reach an agreement according to which the employer agrees to send its employee to or for the benefit of the third party on a business trip, the business trip must be formalised by the employer.

Section 5 of the Business Trip Regulation states that in the event that a third party pays the daily allowance for a business trip abroad to an employee, the employer is obliged to pay at least the difference between the minimum amount stipulated in § 3 of the Business Trip Regulation (i.e. 40 euros) and the amount paid by the third party. The employee is obliged to provide the employer with a third-party confirmation of the payment of daily allowance or to confirm receiving it themselves.

According to subsection 1 of § 8 of the Business Trip Regulation, the limit specified in clause 3 of subsection 1 of § 7 of the Business Trip Regulation (i.e. 75 euros for the first 15 days of the business trip abroad, but no more than 15 days in a calendar month and 40 euros for each subsequent day) is applied to the daily allowance or the amount of daily allowances, if the daily allowance is paid only by a third party or, in addition to the employer, also by a third party, considering the daily allowance paid by the employer first. Thus, such a regulation ensures that an employee sent on a business trip for the benefit of a third party is paid a daily allowance of at least 40 euros per day for the business trip abroad, and the daily allowance is subject to taxation in the amount that exceeds 75 euros for the first 15 days of the business trip abroad, but no more than 15 days in a calendar month and 40 euros for each following day. Daily allowance paid by the employer is taken into account first.

In general, a third party interested in the employee's skills pays the daily allowance to the employee and bears the accommodation costs and other expenses related to the business trip (travel tickets, other reasonable expenses related to the business trip), but it is possible that such expenses are borne and the daily allowance is paid together with the employer. Thus, there may be situations where the daily allowance is paid or the accommodation costs are borne by:

- ✓ the employer

- ✓ the employer and the third party
- ✓ only the third party.

If only the employer bears the accommodation costs and expenses related to the business trip or pays the daily allowance, the employer is obliged to comply with the limits and tax the amounts that exceed the established limits.

Example 1

If the employer sends the employee on a business trip abroad and pays a daily allowance of 48 euros per day, the amount of 8 euros exceeding the limit ($48 - 40 = 8$) is subject to taxation by the employer as employment income. (The daily allowance limit of 75 euros per business trip in a month has been used up.)

Example 2

If the employer and the third party agree on bearing expenses in such a way that the employer pays the employee a daily allowance of 45 euros and the third party compensates the employer for the part exceeding the limit (5 euros), the amount exceeding the tax-exempt limit must still be declared by the employer as employment income. (The daily allowance limit of 75 euros per business trip in a month has been used up.)

Example 3

If the third party pays daily allowance to the employee in an amount exceeding the daily allowance limit (e.g. 44.74 euros), the amount exceeding the limit is subject to taxation as a payment to a natural person (payment type 51 of Annex 1 of form TSD). The third party does not have to tax the amount exceeding the limit as employment income, since there is no employment relationship between the natural person and the third party.

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