



# labour

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## **EXTENSION TO THE DEADLINES FOR APPLYING FOR AND SENDING REPORTS-PROPOSALS IN RELATION TO THE SYSTEM FOR REDUCTIONS TO CONTRIBUTIONS FOR OCCUPATIONAL CONTINGENCIES FOR COMPANIES THAT HAVE MADE A SPECIAL CONTRIBUTION TO REDUCING AND PREVENTING OCCUPATIONAL ACCIDENTS**

May 25, 2013 saw the publication in the Official State Gazette of Order ESS/911/2013, of May 23, 2013, **extending the deadlines for filing applications and sending reports-proposals** in respect of the incentives for **fiscal year 2012**, pursuant to Royal Decree 404/2010, of March 31, 2010.

The aim of this Royal Decree is to set in place an incentive system consisting of reductions to the contributions for occupational contingencies for companies that stand out for their effective, proven contribution to reducing occupational accidents and for taking effective steps towards the prevention of occupational accidents and illness.

Below is a summary of the key aspects of the Royal Decree.

### **1. BENEFICIARY COMPANIES**

All companies making social security contributions for occupational contingencies, whether covered by a managing entity or a mutual insurance company, may benefit from the incentives system, provided they observe the preventive action principles established in Occupational Risk Prevention Law 31/1995, of November 8, 1995, and meet a series of requirements.

- **Generally speaking**, companies (all of the contribution account codes under the same activity code will be deemed a company) must meet, throughout the observation period (the number of consecutive calendar years immediately before the year of the application that have not formed part of a previous application, up to a maximum of four years), the following requirements:
  - a) They must have made investments in occupational risk prevention-related facilities, processes or equipment that help to reduce or eliminate those risks.
  - b) They must have made social security contributions for occupational contingencies with a total volume of contributions in excess of €5,000.

- c) They cannot overstep the limits on accidents established in Annex II to the Royal Decree. An exception is made for accidents en route to or from work.
  - d) They must be up to date with their social security contribution obligations.
  - e) They cannot have been penalized under a final administrative decision for having perpetrated serious or very serious occupational risk prevention or social security infringements.
  - f) They must evidence, by filing the self-assessment form on preventive activities and the existence of the occupational risk prevention-related workers' representatives contained in annex I to the Royal Decree, compliance with the basic requirements concerning occupational risk prevention.
  - g) They must evidence the occurrence or performance of, at least, two of the following initiatives: (i) inclusion in the workforce of in-house preventive resources or expansion of existing resources, even where not legally obliged to do so, (ii) external audits of the company's preventive system, even where not obliged to do so, (iii) existence of road safety plans, (iv) reduction to the percentage of workers exposed to occupational illness risks, and (v) obtainment of an occupational risk prevention organization and operational quality certificate issued by an institution or organization duly accredited by the Spanish National Accreditation Entity (ENAC), evidencing that the company's organization and operations conform to internationally accepted standards.
- **Small enterprises** (those that have not exceeded, in the maximum four-year observation period, a volume of contributions for nonoccupational contingencies amounting to €5,000), in addition to requirements a), c), d), e) and f) above, must meet the following conditions in the observation period:
    - a) They must have reached a volume of contributions for occupational contingencies amounting to €250.
    - b) They must evidence the occurrence or performance of one of the following initiatives: (i) assumption of preventive activity or the appointment of company workers to assume preventive activity, or (ii) obtainment by the employer, or by the appointed workers who are to assume the preventive tasks, of real and effective occupational risk prevention training.

## 2. PROCESSING APPLICATIONS

Between April 1 and May 15 of each year (**deadline extended this year until June 30**), companies seeking to apply for the incentive must submit their application to the mutual insurance company or managing entity that handles coverage of their occupational contingencies.

On receipt of the application, the mutual insurance company or managing entity must send the relevant non-binding report-proposal for the grant or refusal of the company's application for an incentive to the Social Security Directorate-General before June 30 of each year (**deadline extended this year until August 15**).

On receipt of the report-proposal from the mutual insurance companies or managing entities, the Social Security General-Directorate will make the necessary checks in its opinion and, if warranted, issue a favorable decision, serving notice on the mutual insurance company or managing entity that submitted the proposal to be notified to the company, as well as the Social Security General Treasury, so that the latter can take the necessary steps and use the Prevention and Rehabilitation Fund to pay the relevant incentives to the companies protected by the managing entities and transfer to each mutual insurance company (for subsequent payment) the amount of the incentives allocated to their beneficiary companies.

If the Social Security Directorate-General finds that the necessary conditions for the grant of the incentive have not been duly evidenced, it will inform the mutual insurance company or managing entity that prepared the report-proposal so that they can notify the applicant company, which can then plead its case as it sees fit.

### 3. AMOUNT OF THE INCENTIVES

The incentive may reach up to 5% of the amount of the contributions for occupational contingencies by each company in the observation period, or up to 10% where the observation periods are consecutive and the incentive was received in the immediately preceding period, subject to a limit, in both cases, equal to the sum total of the investments referred to in articles 2 and 3 of the Royal Decree made by the company.

In the case of small enterprises, the incentive will be capped at €250 for the first observation period, rising to €500 in the second and successive periods, provided the incentive is received in the immediately preceding period. However, it cannot under any circumstances be higher than the amount contributed for occupational contingencies.

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