

Reductions to social security contributions for research personnel

1. Purpose of the law

The aim of Royal Decree 475/2014, of June 13, 2014, on reductions to the social security contributions of research personnel (published in the Official State Gazette on June 14, 2014) is to establish a 40% reduction to employer social security contributions for nonoccupational contingencies for any research personnel meeting the following requirements:

- They must be workers falling within contribution groups 1 to 4 under the social security general regime.
- They must be engaged, on an exclusive basis and for the whole of their working time, in research and development and technological innovation-related activities (R&D&I). For these purposes, up to 15% of any time spent on training and teaching activities or the like may be calculated as time spent exclusively on R&D&I activities.

The legislation applies the provisions of article 35 of the revised Corporate Income Tax Law for the purposes of defining what will be treated as R&D&I activities.

- The employment contract may be an indefinite term contract, a work experience contract, or a contract for specific project work or services (in this last case, it must be at least for a three-month term).

The law also defines the scenarios in which the reductions do not apply (such as personnel hired for any research and development and technological innovation activities specifically subsidized or financed with public funds, also including the employer social security contributions) and the general requirements to qualify for and retain contribution-related benefits.

2. Compatibility with other aid and deductions

The reductions will be compatible with any of the other benefits already being applied under the Job Creation Program or other measures to support the hiring of new employees, although the aggregate amount of the reductions cannot ever exceed one hundred percent of the employer social security contribution, or, jointly with other support measures, sixty percent of the annual salary cost in respect of the contract to which the reduction relates.

Also defined is the extent to which these reductions are compatible with the tax credit under article 35 of the Corporate Income Tax Law, as follows:

- They will be fully compatible only for R&D&I intensive SMEs (as defined in the legislation) recognized by obtaining the official "Innovative SME" stamp and featuring on the register that will be organized by the Ministry of the Economy and Competitiveness.

- Otherwise, the reduction will be compatible with the above tax credit regime provided it is not applied to the same researcher. Where both are available, enterprises may elect either the reduction to their social security contributions or the tax credit in respect of the costs of the personnel in the projects they take part in and those engaged in the activities defined in article 35 of the Corporate Income Tax Law (or the relevant provincial legislation).

3. Monitoring reductions

Among the measures in place to monitor the reductions implemented, any entities applying the reduction to ten or more researchers over three months or longer in the same fiscal year must furnish the Social Security General Treasury (TGSS), within the six months following the end of the fiscal year in which the reductions were applied, with a reasoned, binding report from the Directorate-General of Innovation and Competitiveness, attached to the Ministry of the Economy and Competitiveness, evidencing that the work of those employees satisfied all the requirements to qualify for the reductions.

Moreover, any employers applying both reductions and tax credits must also provide the State Tax Agency with an annual report on the activities and projects pursued and the researchers for whom the reduction was taken in the latest year ended, when filing their corporate income tax returns.

4. Entry into force and start date for its application

The law will enter into force three months after its publication date, although it will apply retroactively to any full-time research personnel registered for social security purposes on or after January 1, 2013.

Any researchers registered for social security purposes on or after January 1, 2013 may exercise their right to the reduction within the two months following the entry into force of the law.

With respect to any contributions paid in for the periods before the entry into force of the law, applications for a refund of the excess amount paid to the TGSS may be made until December 30, 2014, by providing, if applicable, the binding, reasoned report referred to above. The TGSS must issue and serve notice of its decision within six months of the date on which the documentation for the refund has been completed. If no express decision is rendered in this period, the application may be deemed to have been turned down.

Where the employer has elected to apply the tax credit before the entry into force of the law, contributions will not be refunded.

Click here to see the law in full:

<http://www.boe.es/boe/dias/2014/06/14/pdfs/BOE-A-2014-6276.pdf>

