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AMENDMENTS TO SOCIAL SECURITY REGIME OF SELF-EMPLOYED WORKERS

The Decree-law no. 2/2018, of 9 January entered into force, introducing significant changes to the Social Security Regime of Self-Employed Workers.

Please find below the main changes introduced, from the perspective of the different participants affected by such changes: contracting entities, self-employed workers and their spouses.

1. CONTRACTING ENTITIES

1.1 Broadening of “contracting entities” concept

The concept of “contracting entity” is broadened to include as such any individual or legal entity with business activity that in any calendar year is responsible for more than 50% of the self-employed worker’s revenue.

This amendment comes into force on January 1, 2018.

1.2 Applicable rates

The taxable rates for Social Security contributions borne by the contracting entities are increased, as follows:

- (a) 10% for contracting entities responsible for more than 80% of the self-employed worker’s annual income;
- (b) 7% for contracting entities responsible for at least 50% of the self-employed worker’s annual income.

2. SELF-EMPLOYED WORKERS (GENERAL RULES)

2.1 Extension of excluded situations

The following self-employed workers, holders of category B income, are expressly considered excluded from the Social Security self-employed workers regime as long as such income derives exclusively from:

- (a) Production of electricity for self-consumption or through small production units from renewable energies, under the terms provided for in the legal regime;
- (b) Lease or urban lease agreements for local accommodation in a house or apartment, under the terms provided for in the legal regime;

2.2 Effect of the framework

The effects of the framework on the contributory scheme of the self-employed worker are no longer dependent on a minimum of relevant income by the self-employed person.

The framework will take effect on the first day of the 12th month after the beginning of the activity of the self-employed worker, regardless of the value of the income obtained by the worker in those 12 months.

However, if self-employed workers contribute for one year to the minimum amount, they will be exempt from contributions as long as the conditions that determine the payment of contributions for the minimum amount are met.

2.3 Reporting obligations

Self-employed workers are subject to quarterly reporting obligations to Social Security:

- By the end of the month of April, in relation to income earned in January, February and March;
- By the end of the month of July, in relation to income earned in April, May and June;
- By the end of the month of October, in relation to income earned in October, November and December;
- By the end of the month of January, in relation to income earned in October, November and December.

By the abovementioned months, self-employed workers must report to Social Security:

- (a) The value of the income associated with the rendering of services;
- (b) The value of the income associated with the production and sale of goods;
- (c) The amount of other income required to determine the relevant income of the self-employed worker.

At the time of the quarterly statement, the independent worker may choose to set an income greater or less than 25% higher than that resulting from the declared amounts. This option is made at 5% gaps.

In January, self-employed workers must also confirm or declare the income earned in the previous calendar year.

2.4 Determination of the contributory base

The contribution base is no longer fixed on an annual basis, and starts to be fixed quarterly, thus approaching in time the self-employed worker income in relation to the contribution owed by him/her.

The monthly contribution base corresponds to 1/3 of the relevant income calculated in each reporting period, considering the following limits:

- Minimum Limit: € 20,00;
- Maximum Limit: 12 times de value of the Social Support Index (currently € 5,055.84).

The relevant income of the self-employed worker is determined on the basis of the income obtained in the previous three months, as follows:

- (a) 70% of the total value of services rendered;
- (b) 20% of the income associated with the production and sale of goods.

The self-employed worker may choose to have all of his income taken into account to determine his relevant income.

The relevant income is officially determined by the Social Security, based on:

- (a) The amounts declared by the self-employed worker to the Social Security;
- (b) The amounts declared for tax purposes, officially communicated by the Tax Administration to Social Security.

2.5 Contributory rate

The contributory rate of the self-employed workers is reduced from 29.6% to 21.4%.

2.6 Payment of contributions

The payment of contributions shall be made on a monthly basis between the 10th and the 20th of the following month to which it relates.

3. SELF-EMPLOYED WORKERS (SPECIFIC SITUATIONS)

3.1 Self-Employed workers with organized accounting systems

Self-employed workers with organized accounting systems are exempted from making quarterly statements to Social Security, since the relevant income corresponds to the taxable profit calculated in the previous calendar year.

The contributory base corresponds to the twelfth of the taxable income, with a minimum limit of 1.5 times the value of the Social Support Index (currently € 631.98).

The contributory base is set in October to take effect in the subsequent year.

Once informed of the contributory base, self-employed workers may request the quarterly assessment of the contributory base, in which case they will be bound to the quarterly reporting obligations from January of the following year. These self-employed workers will already be notified to this effect in October 2018, by reference to the declared income this year.

3.2 Independent workers who accumulate professional activity on behalf of others

Self-employed workers who accumulate professional activity on behalf of others are exempt from the obligation to contribute in relation to the average monthly income calculated on a quarterly basis whose amount is less than 4 times the Social Support Index (currently € 1,685.28), provided that they meet all of the following requirements:

- (a) The independent activity and the other activity are provided to different employers, which do not have a domain or group relationship;
- (b) The non-independent (subordinate) activity determines the mandatory framework in another social protection regime that covers all contingencies covered by the scheme of self-employed workers;
- (c) The value of the average monthly remuneration considered for the other social protection regime is equal to or greater than the value of the Social Support Index (currently €421.32).

The contributory base of these workers corresponds to the value of the monthly income that exceeds 4 times the Social Support Index.

Remuneration that exceeds the limit of 4 times the Social Support Index only applies to the determination of invalidity and old age pensions and death benefit.

3.3 Individual entrepreneurs, holders of individual limited liability companies and their spouses

The contribution rate applicable to individual entrepreneurs, holders of individual limited liability companies and their spouses is 25.2%

3.4 Spouses of self-employed workers

The contributory basis for workers covered by the self-employed scheme for being spouses of self-employed workers is 70% of the relevant income of the self-employed worker, within the limits indicated above (see Chapter 2.4).

The spouses of self-employed workers may require a different relevant income: either up to 20% lower than the one fixed or higher, considering the relevant maximum income threshold of the self-employed person.

3.5 Exercise of activity in a foreign country

Self-employed persons who render their activity in a foreign country and who choose to maintain their framework in the self-employed workers regime maintain the last contributory base in cases where self-employment income is not declared in Portugal.

3.6 Entry into force

The amendments to the self-employed workers regime enter into force on January 1, 2019, without prejudice to the abovementioned cases where the regulation is already in force.

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