



SME INFO HU

MAJOR TAX AND LABOR CODE CHANGES EFFECTING PAYROLL FROM 2023 IN HUNGARY



The purpose of SME INFO is to provide general information and to draw the attention to the current changes in law which we believe to be important for the business operation of our clients. It is not a replacement for careful review of the acts and rules, and the consultation with your tax advisor.

Starting from 1 January 2023 the Act I of 2012 on the Labor Code has been amended in a number of points due to the transposition of EU Directives 2019/1152 on transparent and predictable working conditions and 2019/1158 on work-life balance into the Hungarian legislation.

The amendments are intended to achieve uniform and coherent application of the law as well as compliance with EU legislations and harmonisation obligations.

New minimum rights for employees have been introduced, as well as new rules for employers on the content, form and timing of information to be provided to employees in

connection with their work. Work-life balance is to be further strengthened by the extension of paternity leave and the newly introduced parental leave and carer's hours allowance.

In addition to the changes to the Labor Code, we would like to highlight other legislative changes we consider important from the Autumn 2022 tax package that may have an impact on payroll.

And we also review the most important legislative changes we received „after closing”.

az SME Team

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A) CHANGES TO THE LABOR CODE

1. Transparent and predictable working conditions

1.1 Employer's obligation to provide written information to new employee

Further information to be communicated to the employees

Mandatory points of the written information are extended with the followings:

- the workplace,
- the start date and duration of the employment relationship,
- the rules relating to termination of employment,
- work schedule periods (days of the week, possible start and end time of daily working hours),
- the employer's training policy, the training courses available and the duration of such courses,
- the authority to which the employer pays the employment-related taxes.

Revised deadline

The **written information** must be given **within 7 days** of start of employment instead of current 15 days.

In case of a change the information obligation is **due on the effective date** of the change instead of current 15 days.



Some elements of the information may still be provided by making reference to a law or collective agreement.



Under the transitional rules the employer is not obliged to provide retrospective information, however the employee may ask in writing for supplementary information within 3 months after the law enters into force. The employer shall provide the information within 30 days of the request.

 (1) Act I of 2012, 46.§

1.2 The employer's obligation to provide written information if employees are expected to work abroad for more than 15 days ⁽²⁾

The points to be communicated have been expanded. At least 7 days before the date of posting, the employee must be informed of the basic information and – in addition to the existing information obligation – must be informed also in writing of the rules and conditions for the reimbursement of travel, meal and accommodation expenses, as well as the availability of the unified national website containing relevant information on the rights and obligations of the employer providing cross-border services and of the posted employee.

1.3 Regulation of the probationary period in case of a fixed-term employment relationship ⁽³⁾

In case of a maximum of 12 months employment relationship the duration of the probationary period shall be determined on a pro rata basis.

In case of the extension of a fixed-term employment relationship or the re-establishment within 6 months of the termination of the fixed-term employment relationship to the same or similar position a probationary period cannot be imposed.

1.4 Reinstatement of employment relationship ⁽⁴⁾

At the request of the employee, the court may reinstate the employment relationship if the termination was based on an abuse of rights by the employer. In this case, the burden of proof is on the employer and upon reinstatement of the employment relationship the compensation of the employee could be more than the current 12 months' absence fee.

2. Provisions for work-life balance

2.1 Work more flexible ⁽⁵⁾

In order to encourage more flexible employment, the law gives the opportunity to employees who are raising children under the age of eight and employees who are providing care – with the exception of the first six months of employment – to request for

- change to their place of work,
- modification of their working schedule,
- being employed in the framework of teleworking or
- in part-time employment.

§ (2) Act I of 2012, 47.§ (3) Act I of 2012, 192.§ (4) Act I of 2012, 82-83.§

(5) Act I of 2012, 61.§



The employer must respond in writing to the employee's well-reasoned request within 15 days. If the employee's request is refused, the reasons for the refusal must meet the requirements of fairness, clarity and reasonableness.

2.2 Extended and new leave entitlements: paternity leave and parental leave

By clarifying the terminology and extending the eligibility to adoptive fathers, the legislator expands the scope of employees entitled to paternity leave, previously known as the father's working time reduction.

In order to ensure the work-life balance, as well as to share more equally the load of the family as a social unit, the parental leave is introduced.

Paternity leave ⁽⁶⁾

Who is entitled for paternity leave?	New	<ul style="list-style-type: none">• Father• Adoptive father <p>One is entitled to paternity leave even if his child is stillborn or dies.</p> <p>It is also granted if the father is unmarried or divorced.</p> <p>There is no legal requirement for raising children in a household, so a father who does not live in the same household as the child but shares parental rights with the mother is also entitled to paternity leave.</p>
Content	New	10 working days The law does not distinguish between children and twins!



§ (6) Act I of 2012, 118.§

How to claim?	No change	<ul style="list-style-type: none"> At the father's request, on the date and time indicated by him, in no more than two instalments.
Deadline for claiming	Have not changed, but clarified	<ul style="list-style-type: none"> In case of the birth of a child, at the latest by the end of the second month following the birth of the child In the case of adoption of a child, at the latest by the end of the second month following the finalisation of the decision authorising the adoption <p>It may not only be issued in the year in which the due date falls.</p>
Considered to be time spent at work	No change	It is considered as time spent at work for leave calculation purposes.
Apportionment for employment relationship that started during the year	No change	It does not need to be pro-rated, but special rules apply in the event of a change of employer.
Remuneration	New	<ul style="list-style-type: none"> For the first five working days absence fee is paid From the sixth working day onwards, 40% of the absence fee is payable.
Protection of dismissal	New	The employee is protected against dismissal during the period of entitlement.
Financial compensation	No change	Unused paternity leave cannot be exchanged for cash.
Certification to be issued in case of termination of employment relationship and transferring it to the next employer	New	If the employee who is entitled to paternity leave has not taken paternity leave or has only taken partially of the paternity leave before the cessation or termination of his employment relationship, he may take it at the new workplace, subject to the conditions set out in the certification issued by the previous employer.



Transitional provisions: For a child born or adopted between 2 August and 31 December 2022, within two months from the entry into force of the Act, the employee is entitled to take the paternity leave or the difference between the paternity leave already taken and the paternity leave to which he is entitled.



A separate government decree regulates the followings:

- in order to be entitled to paternity leave what kind of documents and in what format the father has to present,
- what kind of data may be managed by the employer and what data is compulsory to be kept on record and,
- how the employer should proceed regarding reimbursement of remuneration and expenses related to paternity leave.

Parental leave ⁽⁷⁾

Who is entitled for?	<p>Employees until the age of 3 of their child or adopted child.</p> <p>A special condition is that the employment relationship must already lasted one year by the time of the born of the child or, in case of adoption, after the adoption order became final.</p> <p>If, at the time of the child's birth or, in case of adoption, the adoption order became final, the employment relationship with the employer had not yet lasted one year, but this requirement is subsequently met, the employee may take parental leave.</p>
Content	44 working days
How to claim?	<ul style="list-style-type: none"> At the request of the employee, as requested by the employee, the request must be submitted at least fifteen days before the start of the leave. <p>Special rule: In extraordinary cases of considerable economic interest or for a reason that directly and seriously affects the employer's operation, the employer may postpone the granting of parental leave for a maximum of 60 days by providing written justification and offering another date of leaving.</p>
Deadline for claiming	Until the child is three years old.
Considered to be time spent at work	It is considered as time spent at work for leave calculation purposes.
Entitlement to severance pay	This period should be taken into account in case of severance pay calculation
Apportionment for employment relationship that started during the year	It does not need to be pro-rated, but special rules apply in the event of a change of employer.



(7) Act I of 2012, 118/A.5

Remuneration	For the whole period, 10% of the absence fee, reduced by the amount of the child-care benefits (GYED/GYES) to the employee for the given period.
Protection of dismissal	The employee is protected against dismissal during the period of entitlement.
Financial compensation	Unused parental leave cannot be exchanged for cash
Certification to be issued in case of termination of employment relationship and transferring it to the next employer	If the employee who is entitled to parental leave has not taken parental leave or has only taken partially of the parental leave before the cessation or termination of his/her employment relationship, he/she may take it at the new workplace, subject to the conditions set out in the certification issued by the previous employer.



Transitional provisions: If the employee's child reaches the age of three between 2 August 2022 and 30 June 2023, the employer shall grant parental leave – at the time requested by the employee – no later than 30 June 2023.

2.3. Carer's working time reduction (Carer's leave) ⁽⁸⁾

For the purpose of harmonizing the legislation, the legislator introduces a new type of leave, which may be utilised by employees who provide personal care for a relative who is in need of care due to serious health reasons or for a person who is living in the same household as the employee.

Who is entitled for?	An employee who provides personal care or support to a relative or a person living in the same household who needs significant care or support for serious health reasons certified by the physician.
Content	Maximum 5 working days/year
How to claim?	<ul style="list-style-type: none"> • At the request of the employee, • as requested by the employee, • in up to two instalments. <p>A certification from the physician is required</p>
Deadline for claiming	Claimable in the current year.
Considered to be time spent at work	It is considered as time spent at work for leave calculation purposes.

(8) Act I of 2012, 55.§

Remuneration	Absence fee is due for the whole period.
Protection of dismissal	The employee is protected against dismissal during the period of entitlement.
Financial compensation	Unused carer's working time reduction (carer's leave) cannot be exchanged for cash.
Certification to be issued in case of termination of employment relationship and transferring it to the next employer	There is no obligation for the employer to issue certification.

3. Other changes, clarifications

The law replaces the current side-by-side relationship with giving priority to the salary payment via transfer to a bank account designated by the employee. Payment of salaries in cash will be possible on the basis of a written agreement between the parties. ⁽⁹⁾

In addition, the law clarifies that, in the case of legal statements communicated by postal, the deadline is deemed to have been observed if they are posted before the expiry of the deadline. ⁽¹⁰⁾

4. Employers' to do

To Do list of employers in relation to the above changes

- review of internal HR processes,
- modification of sample employment documents (e.g. information brochures, certificates to be issued upon termination of employment relationship),
- modification of internal rules (e.g. posting rules),
- gathering and reviewing training.



(9) Act I of 2012, 158.§

(10) Act I of 2012, 25.§

B) CHANGES TO OTHER TAXATION LAWS

1. Personal Income tax (PIT)

1.1. Allowance for young people under the age of 25 years ⁽¹¹⁾

The tax authority will include in the draft tax return the data related to the PIT allowance for individuals under the age of 25, which the individuals can modify and supplement until the filing deadline of the personal income tax return. In the absence of modifications, the final amount of the allowance to which the beneficiary is entitled will be the amount shown in the draft tax return.

Date of entry into force: 1 January 2023

1.2 Special employment of foreign individual ⁽¹²⁾

The change only effecting a relatively narrow group is that if a foreign individual works less than 30 days at public trusts carrying out public service functions or ecclesiastical legal entity or at a higher education institution maintained by such a foundation or ecclesiastical legal entity, the received allowance will be free from tax. The obligation to report to the tax authorities this employment will burden the employer and the foreign individual won't have any administrative obligations.

Date of entry into force: 1 January 2023

1.3 Expansion of regulation related to trusts

Due to the special situation of trusts and their relatively recent existence (2019), the legislations – including the PIT law – are constantly evolving and adjusting.

1.3.1 Income from capital gains ⁽¹³⁾

The expenditure for the acquisition of securities transferred through a trust established for this purpose by an ESOP (Employee Stock Ownership Plan) has been defined in the same way as if it was a security provided directly from the ESOP

Date of entry into force: 1 January 2023

§ (11) Act CXVII of 1995, 29/F.§ (3a)

(12) Act CXVII of 1995 Annex 1, 4.4.51; Act CL of 2017, 41.§ (1a)

(13) Act CXVII of 1995, 67.§ (9) ag

1.3.2 Income from long-term investment ⁽¹⁴⁾

The regulation which defines who is entitled to open a long-term investment account (TBSZ) has been amended. This scope has been extended with trusts established by private individuals (and consisting of only private individual beneficiaries).

Date of entry into force: 24 November 2023

1.3.3 Securities obtained under SESOP ⁽¹⁵⁾

Also related to the trusts is an amendment of the tax regulation on income earned in the form of securities, whereby the asset value specified in the securities that the individual obtain as a beneficiary of a trust established within the framework of the SESOP (Special Employee Stock Ownership Plan) is not considered income.

Date of entry into force: 1 January 2023

3 Social tax ⁽¹⁶⁾

Since 2014, Hungary has seen an increasing number of foreign film productions, also thanks to the film related tax incentives introduced by the government. One aspect of this tax relief is a special simplified tax regime for foreign film production actors and crew members, which is included in the personal income tax law. However, in addition to personal income tax, social tax liability also arises for this specific target group, with a special exemption condition, i.e. if an EGT state or Switzerland has proven the existence of social insurance, the person is exempt from paying social tax.

As a result of the current modification, the list of exempted countries will be extended to include countries with which Hungary has concluded so-called social security agreements in the past. Social security conventions are registered by the National Health Insurance Fund Manager [at this link](#).

Date of entry into force: 1 January 2023

4 Social security

Employer definition ⁽¹⁷⁾

In the Social Security Act, an employer for social security purposes is an important concept, the exact definition of which is contained in the act. Under the autumn modification of the tax laws, this definition of employer will be supplemented by the legislator. The addition relates to the delegation of an employee between companies and, in connection with the delegation,

§ (14) Act CXVII of 1995, 67/B.§

(15) Act CXVII of 1995, 77/A.§

(16) Act LII of 2018, 5.§ (4a)

(17) Act of CXXII of 2019, 4.§ 4.10.

to the person who is the cost bearer of course from the point of view of the payment of contributions. It is our understanding that, under the modification, in arrangements where the parties concerned agree that the salary and other benefits of the insured seconded employee are paid by the host company, the original seconding employer remains the employer for social security purposes and settles the contributions.

Date of entry into force: 1 January 2023

5 Tax administration

Restriction of the justification request ⁽¹⁸⁾

If the time limit for appealing against a rejection of a request for justification is missed, no further request for justification may be made.

Date of entry into force: 24 December 2022

C) ARRIVED AFTER CLOSING

End of December was a busy legislation making period. Below we present further law changes which may (also) affect payroll.

We would like to note that the changes are published in government decrees and some of them are valid until the end of the current state of danger which is governed by the 424/2022 Government Decree and is expected to last until end of May 2023.

According to our expectations, these changes will remain even after the end of state of danger.

1. Tax allowance for mothers under the age of 30

The 596/2022 (XII.28.) Government Decree introduced a new personal income tax base allowance. The most important regulations are as follows:

Who is entitled and from when?

Any young mother who has already reached the age of 25 but is under 30 and become entitled to family tax allowance (biological or adopted children or fetus) after 31 December 2022. The allowance is available from 1 January 2023.

What is the amount of the tax base allowance the young mother is entitled to?

The allowance is linked to the gross national average income published by the the Central Statistical Office (KSH) for the July of the previous year

 (18) Act CLI of 2017, 53.§ (7)

and to the month of eligibility. According to the latest information of the Tax Authority the maximum amount of monthly tax base allowance is HUF 499,952 in 2023 (on an annual basis this is HUF 5,999,424).

What does the month of eligibility mean?

The month of eligibility is any month in which the young mother is entitled to family tax allowance. In addition to the specific rules on family tax allowances (e.g. entitled to child benefit based on Act 84/1998 on Family Support), the age of the mother must also be taken into account!

The month in which the young mother is entitled to the family tax allowance with respect to her biological or adopted child or the fetus can be taken into account as the month of entitlement, but no earlier than the month following the month of her 25th birthday. Tax allowance can be applied up to the last entitlement month (December) of the year in which the young mother turns 30.

How the young mother can apply for the tax allowance?

The same way as in the case of the other Personal income tax (PIT) related tax base allowances, by filling a declaration. The declaration – published already by the Tax Authorities – should be signed and given to the employer, payer. If the young mother is entitled to more types of PIT allowances, then the tax allowance for mothers under the age of 30 comes after the tax allowance granted to mothers raising 4 or more children and tax allowance for individuals under age of 25.

Against what income could the tax allowance be taken into account?

The government decree lists the income from dependent and independent activities included in the consolidated tax base, against which the tax base allowance can be deducted. For instance, wages; taxable social security benefits (sickleave, CSED, GYED etc); income of entrepreneurs, income from the activity of an elected auditor, etc.

Can it be applied retroactively, i.e. if the young mother gave birth to her child before 31 December 2022?

Unfortunately, not. The tax allowance can only be applied for children born in 2023 (or after).

What happens if the young mother's income and therefore her tax base is reduced to zero as a result of the tax allowance?

The amount of any remaining allowance can be taken into account as family contribution allowance, but for this the family tax allowance declaration must also be filled out.

2. Family tax allowance for families with permanently ill or seriously disabled children

Government Decree 597/2022 (28.XII.) on the special supplement to the family tax allowance was adopted at the end of the year. The additional tax base allowance under the new decree is available to families who have a child, who meets the definition of a permanently ill or seriously disabled person under the Act 84/1998 on Family Support.

The amendment increases the monthly amount of the existing family tax base allowance by HUF 66,670 per month for a permanently ill or seriously disabled person (child). To claim this allowance, the family tax allowance declaration form must be completed with the indication of the newly created - relevant - code.

3. SZÉP Card – no more sub-accounts

On 1 January the Government Decree 593/2022 (28.XII.) abolished the sub-accounts of SZÉP Cards. The plan, which had previously been rumoured in the press, was effectively implemented in the government decree. The substantive part of the amendment is that the favourable tax limits (thHUF 225-150-75) set for the SZÉP card's sub-accounts (accommodation-catering-leisure) will be merged into one annual limit of HUF 450,000 that can be granted to the employee, with favourable tax treatment. All previously known tax rules, e.g. for benefits above HUF 450,000 per year, remain in force. The essence of the change in a single phrase is „de-pocketing“.

Although employees will be less affected by it, but considering the employers' transfer it might be important to note that the SZÉP card issuers (OTP, MKB, K&H) will keep the accommodation sub-account out of the 3 sub-accounts and, from 8 to 9 January, transfer the funds from the catering and leisure sub-accounts to the accommodation one and then delete the other two.

4. Minimum wage and guaranteed wage minimum in 2023

As from 1 January 2023, the amount of minimum wage is HUF 232,000 and the amount of the guaranteed wage minimum is HUF 296,400.

