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Poland: Severance pay/redundancy compensation

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🌐 Poland	Phase:	Management
	Type:	Severance pay/redundancy compensation

📅 *Last modified: 07 June, 2019*

Native name:	**Ustawa z dnia 26.06.1974 r. -Kodeks pracy; Ustawa z dnia 13.03.2003 o szczególnych zasadach rozwiązywania z pracownikami stosunków pracy z przyczyn niedotyczących pracowników; Ustawa z dnia 21.08. 2004 r. o świadczeniach opieki zdrowotnej finansowanych ze środków publicznych; Ustawa z dnia 26.07.1991 r. o podatku dochodowym od osób fizycznych; Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 18.12.1998 r. w sprawie szczególnych zasad ustalania podstawy wymiaru składki na ubezpieczenie emerytalne i rentowe**
English name:	**Act of 26.06.1974 -Labour Code; Act of 13.03.2003 on special principles of termination of employment contracts with employees for reasons not related to employees - 'Collective Dismissals Act'; Act of 21.08.2004 on publicly-funded health care services; Act of 26.07.1991 on the personal income tax; Regulation of the Minister of Labor and Social Policy of 18.12.1998 on the detailed rules for establishing the basis of assessment of pension contributions**

Article

Article 23(1) of the Act of 26.06.1974 -Labour Code; Article 8 and 10 of the Act of 13.03.2003 on special principles of termination of employment contracts with employees for reasons not related to employees - 'Collective Dismissals Act'; Article 81 section 1 of the act of 21.08.2004 on publicly-funded health care services; Article 12 of the Act of 26.07.1991 on the personal income tax; § 2 section 3 of the Regulation of the Minister of Labor and Social Policy on the detailed rules for establishing the basis of assessment of pension contributions

Description

The day after notice periods ends, employees are entitled to a severance payment equal to:

- the monthly remuneration, if the length of service is for less than two years;
- twice the monthly remuneration, if the length of service is from two to eight years;
- three times the monthly remuneration, if the length of service is over eight years.

The duration of employment is calculated including previous employment periods, if a transfer of undertakings had taken place before article 23(1) of the Labour Code . The amount of the severance payment cannot exceed 15 times the minimum remuneration for work as defined under separate provisions. The severance payment is calculated based on the way of calculating the cash in lieu of holiday leave.

Severance pay is paid by employers employing at least 20 employees and only in two situations:

- if the termination of employment is based on collective dismissal (within 30 days, dismissals of at least 10 workers in companies with 20-99 employees, at least 10% of workforce in companies with 100-299 employees or at least 30 dismissals in companies employing more than 300 employees);
- in case of individual termination of employment, if the termination is due to reasons not attributable to the individual employee.

In other words, employees in companies employing less than 20 employees have no right to the redundancy payment.

If the company is liquidated or bankrupt, the liquidator or official receiver is obliged to pay severance from the company assets. If this is not possible, he/she must apply to the Employee Benefits Guarantee Fund, for supplementing the missing funds. In any case the affected employee is compensated.

Comments

Severance payment is not subject to social security contributions (§ 2 section 3 of the Regulation of the Minister of Labor and Social Policy on the detailed rules for establishing the basis of assessment of pension contributions) and health insurance contribution. The calculation of the latter is determined according to the provisions defining the basis for calculating pension insurance contributions (article 81 section 1 of the act of 21.08.2004 on publicly-funded health care services). In the absence of social contributions, no deduction is made for health insurance.

Severance payment is the employee's income from the employment relationship within the meaning of article 12 of the Act of 26.07.1991 on the personal income tax and is subject to tax on a general basis for the employee, including all other income earned in a taxable year on a tax scale.

If a collective agreement exists in the company, it can be only in favour of redundant employees so it cannot derogate from the legal provisions.

Cost covered by

Employer

Involved actors other than national government

National goverment only

Thresholds

Company size by number of employees:
20
Number of affected employees:
10

Sources

- Collective Dismissals Act (in Polish)
- Ius Laboris (2009), Collective Redundancies Guide, Brussels
- Kuczkowski, L. (2008), 'Poland', in van Kempen, M., Patmore, L. and Ryley, M. (eds), The Redundancy Law in Europe, Alphen van den Rijn
- EMCC Legal framework for restructuring

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