

Benko Kotruljić d.o.o.
 Šarengradska 9
 HR-10000 Zagreb
 tel: +385 1 3845 222
 fax: +385 1 3016 111
 www.benko-kotruljic.hr
 OIB: 30578946052

GIFTS AND PAYMENTS TO EMPLOYEES - 2018. – changes and additions - update

Pursuant to the provisions of the Amendments of the Ordinance of Income Tax Bylaw, published in Official Gazette on November 30, 2018. there is addition of using one new non-taxable payment that is possible to apply on payments after December 1, 2018.

In Ordinance of Income Tax Bylaw (Official Gazette 10/17, 128/17 I 106/18), in Article 7., par. 2, is added number 32, that says:

32.	Work performance awards and other forms of additional reward of employees (additional salary, addition to monthly salary and similar)	Up to 5.000,00 HRK yearly
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Work performance awards and other forms of reward from the above description may be used for various rewards to employees but under the requirement that this receipt does not exceed permitted 5.000,00 HRK. Employer can pay to employee's higher amounts, but then paid amount/difference is taxable as payroll with obligation of calculation taxes and contributions.

Employer is obliged according to Article 8, par. 1. of Income Tax Ordinance to bring Decision on appropriate non-taxable payment to employee since it is in the same Article 8 prescribed that non-taxable payments are recognized exclusively based on credible documents.

Please note that this award should be paid to employees only to the bank account (not in kind or in cash, as for example Christmas gift).

Listed below are and others the most used annual payments/reimbursements, prescribed per Income Tax Ordinance as free of taxation:

ANNUAL PAYMENTS TO EMPLOYEES – CUMULATIVELY UP TO 2.500 HRK PER YEAR

Income Tax Bylaw (published in Official gazette, No. 10/17, 128/17, 106/18) Article 7. paragraph 2. point 5. regulate the possibility of appropriate gift payment to employees, free of taxation, amounting to maximum of 2.500,00 HRK cumulatively, per year, per employee (for example: Christmas reward, Holiday pay, Easter reward). Total amount of 2500,00 HRK can be divided into several payments during the year (for example: 1250,00 Holiday pay, 1250,00 Christmas reward). If the employer is rewarding employee several times during the year, and he uses the total of non-taxable amount of 2.500,00 HRK with the first payment, all other payments are taxable and treated as salary. Annual appropriate gift could be either paid in money (cash or via bank transfer to employee's current account) or as in-kind-gift.

Important:

If appropriate gift is paid to an employee who is employed at the same time with two or more employers, in the tax period for which the gift is paid, and/or during the tax period had an employment concluded with two or more employers, but not at the same time, the employee is obliged, before payment of appropriate gift, submit to each employer a written statement indicating whether the other and/or former employer has made the payment of the appropriate gift for that tax period, in what amount, and if payment was base for calculation of advance on income tax. If appropriate gift has already been paid in the tax period, rest of free of tax amount can be paid only to the prescribed free of tax annual amount.

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GIFT TO CHILDREN UP TO 15 YEARS OF AGE – UP TO 600 HRK PER YEAR

Income Tax Bylaw (Article 7, paragraph 2, point 18) regulate the possibility of employer to pay free of tax amount up to 600,00 HRK per year as a gift to employee's children up to 15 years of age i.e. children which till December 31st of current year are 15 years old. Each parent is entitled to this payment. Gift is payable in money or in-kind (toys, sweets etc.) for all children regardless whether they are registered on parent's tax card or is the parent their health insurance contractor (if not differently regulated by Collective Agreement or by Internal employment agreement).

GIFT IN KIND TO EMPLOYEE - UP TO 600 HRK PER YEAR

Income Tax Bylaw (Article 22, paragraph 3. point 7.) regulate the possibility of employer to give in-kind-gift to the employee, amounting to the value up to 600,00 HRK per year (including VAT).

Gift in kind amounting to the value up to 600,00 HRK, per year, can be free of tax **only if it's given in kind.**

If the in-kind-gift is more than 600,00 HRK, or the gift is paid in money, it is considered as an income and should be accordingly taxed as a salary in kind (taxes, surtax and both employers and employee's contributions should be paid).

Note: For all remunerations that can be paid in kind, should be taken on mind that in total net value should be taken and VAT amount (according to VAT regulation).

In addition to the above listed, you can find below part of additionally prescribed (by Income Tax Bylaw) most common used amounts of reimbursements that employers can pay to employees, as non-taxable receipt:

GIFT / SUPPORT and similar:

- support for new born child up to one budget unit under a special regulation (at this moment amount is 3.326,00 HRK)
- support due to disability of employee up to 2.500,00 HRK per year
- support in case of death of the employee up to 7.500,00 HRK
- support in case of the death of a close family member of employee up to 3.000,00 HRK
- child support for education up to the age of 15, ie up to end of elementary school which the employer pays to the child of the deceased employee or to the child of a former employee who has suffered a complete loss of working ability under the conditions set out in Art. 9, par.1, p. 13, of the Income Tax Act, up to 1.750,00 HRK per month
- support for sick leave of employees in duration longer than 90 days up to 2.500,00 HRK per year
- fee for separate life from the family up to 1.750,00 HRK per month

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JUBILEE PAYMENT to employee for years of service:

- 10 years – up to 1.500,00 HRK
- 15 years – up to 2.000,00 HRK
- 20 years – up to 2.500,00 HRK
- 25 years – up to 3.000,00 HRK
- 30 years – up to 3.500,00 HRK
- 35 years – up to 4.000,00 HRK
- 40 years and every next 5 years of service – up to 5.000,00 HRK

Note: Employer can pay to employee's higher amounts, and/or jubilee payment to employees for lower number of years then stated above, but in those cases, paid amount/difference is taxable as payroll.

Employee's entitlement to appropriate gift on Easter, Holiday, or Christmas is not regulated by the Labour Act, yet by Collective Agreement that binds the employer, Internal employment agreement, or the employment contract. If the entitlement to appropriate gift is not regulated by any of mentioned, yet employer is willing to grant the employee, payment can be made upon prepared Decision on appropriate payment or reimbursement to employee (Article 8, paragraph 1. of Income Tax Ordinance by which all non-taxable payments are recognized exclusively based on credible documents).

BENKO KOTRULJIĆ Ltd.
December 13, 2018.