

INFORMATION FOR CLIENTS¹

January 2012

Travel expenses

Dear Client!

As a result of changes in the Labor Code effective as of 1. 1. 2012, essential changes also took place in the area of reimbursement of travel expenses. We are sending this document to provide you with an overview of the legal changes in this area.

Travel expenses are regulated by § 151 to 189 of the Labor Code. The amendment to the Labor Code effective as of 1.1.2012 brings fundamental changes, in particular regarding issues of claimable domestic and foreign daily allowances, specification of the definition of regular place of work for the purpose of compensation of travel expenses or in calculating the duration of a business trip.

Arising of a claim for compensation of travel expenses

A claim for travel expenses arises for the employee in particular on a business trip (that is, the employee being sent away from the agreed place of work), on a trip away from the regular place of work and in connection with a special trip to work outside of scheduled shifts (hereinafter “business trip”).

An employee, for the purposes of travel expenses, is primarily an employee under employment. For employees working on the basis of contracts for work performed outside the scope of an employment relationship, a claim to compensation of travel expenses arises only in the case that this claim has been agreed with the employee.

Managing directors, partners and members of statutory bodies who are compensated for this activity are seen as employees under the Income Tax Act and also have the right to claim compensation of travel expenses (though even despite this fact, we recommend agreeing this claim in the contract).

¹ The material presented regarding changes in legislation is of an information character only and does not in any case substitute for professional consultation. When resolving concrete cases, do not hesitate to contact our offices.

Place of performance of work, regular place of work

Providing compensation of travel expenses depends on the regular place of work of the employee. A trip outside of the regular place of work forms the basis of a claim for the payment of travel expenses. As of 1.1.2012 it is forbidden to define the regular place of work as being broader than one county (for example, South Bohemian Region, Czech Republic).

If the employment contract does not establish the regular place of work, this function is replaced by the agreed place of performance of work. Again, this cannot exceed the scope of a single county. In the opposite case, the regular place of work is taken to be the county in which the business trips of the employee originate most often.

For an employee working on the basis of an agreement for the performance of work, the regular place of work is the county of residence of the employee, unless a regular place of work is agreed in the contract. In the case of an agreement for employment, it is always necessary to agree the regular place of work.

Calculating the duration of a business trip

A business trip commences at the moment of departure from the regular place of work. A business trip abroad begins at the moment of crossing of the national border of the Czech Republic. In the case of air travel, the period of time spent abroad is newly defined by flight departure, respectively, arrival from/to the Czech Republic.

A business trip may be interrupted at the request of the employee, and that not only upon completion of the work, but also prior to or in the course of performance of the work (for example, by extending a business trip abroad by a weekend prior to commencing the performance of work, a weekend between two work weeks abroad or the extension of a business trip by a weekend following the performance of the work). In the case of interruption of work it is necessary to examine compensation of travel expenses not only with regards to the legal claims of the employee, but also in terms of tax recognition of the compensation paid.

In general – minimum and maximum amount of travel compensation and tax consequences

Tax evaluation of travel expense compensation follows on the different forms of travel expense compensation for the business and non-business sector. The Labor Code for the business sector determines, in most cases, only the minimum amount of travel expenses without an upper limit. In the non-business sector, travel expense compensation can be provided only to the limit set or permitted by law.

Travel expenses provided by the employer-businessman in the interval set for the non-business sector represent a tax-deductible expense for the employer² and for the employee, the compensation of these expenses is not subject to any deductions (tax on income from dependent activities, nor social security and health insurance).

² § 24 odst. 2 písm. zh) zákona o daních z příjmů

If the employer in the business sector provides compensation of travel expenses for the employee in a higher amount, this agreed amount also represents tax-deductible expense for the employer. Above the limit travel expenses, however, are subject to tax on income from dependent activities and deductions for social security and health insurance³.

Daily allowances on a domestic business trip

Unless the employer sets the amount of daily allowances prior to sending the employee on a business trip, the employee is entitled to daily allowances in the minimum amount.

It is possible to provide daily allowances at a higher level with the tax consequences described in the text above.

Rates of daily allowances for 2012 according to decree no. 429/2011 Coll.:

Duration of business trip	Minimum rate	Maximum limit, which is not subject to income tax and not subject to Social Security and health insurance deductions
5-12 hours	64 CZK	76 CZK
12-18 hours	96 CZK	116 CZK
Over 18 hours	151 CZK	181 CZK

Reduction of daily allowances for each free meal provided

Daily allowance is decreased for each meal in the form of breakfast, lunch or dinner provided free of charge on a business trip, for which the employee makes no financial contribution. As of 2012, the reduction of daily allowance for meals provided free of charge is mandatory. If the employer sets a lower amount of reduction than that set by law, the difference will newly be subject to tax on the side of the employee as well as deductions for social security and health insurance. On the side of the employer this is a tax-deductible expense, if this claim is agreed. If the employer does not set a reduction in a different amount, the employee is entitled to daily allowances reduced on the basis of meals provided free of charge in the following (maximum) scope:

Duration of business trip	Reduction for 1 meal
5-12 hours	70%
12-18 hours	35%
Over 18 hours	25%

Example:

On a domestic business trip lasting 16 hours with two meals provided, a claim for daily allowance arises in the minimum amount of 96 CZK(1-(2*35%) = 28,80 CZK.*

³ § 6 odst. 7 písm. a) zákona o daních z příjmů

The periods of business travel over two consecutive days continue to be added together for the purposes of calculating a daily allowance claim if this calculation procedure is more advantageous for the employee.

If the employee has agreed with the employer on the interruption of business trip, the employee is not entitled to daily allowances for the period of interruption. Daily allowances must be adjusted even in the case of an employee who has been sent on a business trip to place of the employee's residence.

Daily allowances during a business trip abroad

Daily allowances for trips abroad are set according to the period spent abroad and depending on the rate of daily allowances for the relevant country.

For the year 2012 the rates set by decree no. 379/2011 Coll. – selected for you:

Country	Currency	Basic rate
Germany	EUR	45
Austria	EUR	45
Slovakia	EUR	30
USA	USD	50
Great Britain	GBP	40

Prior to sending an employee on a business trip abroad the employer may determine that, taking into consideration the conditions of the business trip and method of meal provision, a lower amount of foreign daily allowances will be provided, at least, however, in the amount of 75 % of the foreign daily allowances set by the decree.

Increasing the basic rate of daily allowances above the amount set by the decree cannot be considered as compensation of a travel expense as intended by the Labor Code. For the employer this then represents a non-deductible expense and for the employee this increase will be subject to income tax and deductions.

Reducing of daily allowances for each free meal provided

In the case of meals provided free of charge, the employee is entitled to daily allowances in a reduced amount with the same tax consequences as in the case of domestic business travel.

As of 2012 a change will also take place in the time zones and amount of foreign daily allowances depending on the length of the business trip:

Duration of business trip	Rate	Reduction for 1 meal
1-12 hours**	1/3	70%
12-18 hours	2/3	35%
Over 18 hours	Full amount	25%

** If the claim to domestic daily allowances arises for the employee for the period of a business trip spent domestically, an entitlement to foreign daily allowances newly arises for the employee only if the period spent abroad exceeds 5 hours. In the opposite case, the period spent abroad is added to the time spent domestically.

Example:

A business trip takes place domestically from 15:00 to 22:00. At 22:00 the employee crosses the national border and returns to the Czech Republic at 14:00 the following day. The business trip terminates at 18:00. For the first day the employee is entitled to claim domestic daily allowance for the period of 9 hours and there is no entitlement to foreign daily allowance. For the second day the right arises for foreign daily allowance for the period of 14 hours, and the right to domestic daily allowance for the period of 4 hours does not arise for the employee. Since this is a business trip over two calendar days, it is necessary to examine whether the calculation of the claim for domestic daily allowances on the basis of a sum of the periods over both days spent domestically on the business trip is not more advantageous for the employee, that is, 9 hours + 4 hours = 13 hours. The employee then has a right to domestic daily allowance in the minimum amount of 96 CZK, instead of 64 CZK.

The periods spent abroad in the course of one day are added together for the purposes of calculation of the claim for daily allowances. Newly, however, in contrast to domestic business travel, the period spent abroad can no longer be added together within the scope of a single business trip over two calendar days.

Pocket money

The employer may provide the employee with pocket money on the business trip of up to 40% of the daily allowance in amount of the rate of daily allowances before reduction for free provision of meals. Pocket money of up to this amount will be a tax deductible expense for the employer and for the employee it will not be subject to tax on income from dependent activities and deduction for insurance.

Example:

*On a business trip to Austria for a period of 16 hours with two free meals provided, a claim for daily allowance arose in the minimum amount of 45 EUR*2/3*(1-(2*35%) = 9 EUR. Pocket money can be provided in the maximum amount of 45 EUR*2/3*40%=12 EUR.*

Mileage compensation

If, at the request of the employer, the employee uses a personal car for a business trip, the employee is entitled to compensation of mileage expenses. According to decree no. 429/2011 Coll. the base compensation rate in the case of use of a personal car is 3,70 CZK per 1 km. In addition to the base compensation, compensation for fuel is paid according to the average use stated in the technical documentation for the vehicle and according to fuel prices backed up with a receipt for purchase in connection with the relevant business trip. If the employee does not present a receipt for purchase of fuel, the employee is entitled to compensation according to the price set by the decree. In the case of use of a trailer, the employee is entitled to base compensation increased by a minimum of 15 %, and in the case of trucks double the base compensation rate is due.

Compensation for fuel used is calculated from the purchase price of fuel abroad only for kilometers driven out of the country.

Other compensation for travel expenses

The employer compensates the employee for accommodation and other necessary additional expenses that arise during the business trip on the basis of receipts submitted. The only exception is use of local mass transit within the scope of a business trip in the county of the site of performance of work, where the employee does not need to prove journey expenses.

Visiting a family member

If a domestic business trip lasts longer than 7 calendar days, the employee is entitled to compensation of mileage expenses in connection with a trip to visit a family member and back. The amount of the claim will correspond to the maximum mileage expenses for the trip to the site of performance of work, regular place of work or the employee's place of residence in the Czech Republic and this in a manner that is the most advantageous for the employee.

A claim for the compensation of mileage expenses in connection with a trip to visit a family member in the case of a business trip abroad arises only under the assumption that the duration of the business trip abroad exceeds 1 month and the employer has agreed to the compensation of these expenses.

Flat rate for travel expenses

Under the assumption that the employee is sent on mutually comparable business trips, it is possible that a flat rate may be set for the employee's claim for compensation of travel expenses or part of these expenses. For the purposes of assembling a calculation, the average conditions from business trips undertaken up until now may be used.

Temporary assignment

The regulation of travel expense compensation also reacts to the newly instituted form of temporary assignment. Employees who are assigned to perform work for another employer at a place of work other than the one agreed in the employee's employment contract will be entitled to compensation of travel expenses.

Advance for travel expenses

The employer is obliged to provide with an advance to the employee up to the amount of expected travel expenses unless otherwise agreed with the employee.

Unless the employer agrees on a different procedure with the employee, for a business trip abroad the employer will provide an advance in Czech currency for the employee as well as an advance for foreign daily allowances in the currency according to the decree.

Settlement of travel expenses

The employee is required to submit a settlement of compensation for travel expenses, including documents necessary to prove the travel expenses to the employer within 10 working days and potentially return the unused portion of an advance to the employer. The employer is subsequently required to compensate the employee for any potentially outstanding balance on travel expenses within 10 days. Both of these deadlines can be agreed otherwise.

The amount remaining on the advance, in Czech currency, which the employee is supposed to return to the employer or possibly which the employer is to provide to the employee as a payment of outstanding balance, is rounded up to whole Czech Crowns.

For the purposes of settlement, the exchange rate used is that posted by the Czech National Bank on the date of payment of an advance. If the employee exchanges the provided advance payment to foreign currency abroad, the exchange rate for which back up is provided is used. If no advance payment was provided, the exchange rate of the Czech National Bank valid on day of commencement of the business trip is used.

If you will be paying travel expenses over the limit to your employees (be it on the basis of a collective contract, internal regulation or individual agreement with an employee), submit information regard the over-the-limit payment of travel expenses to our payroll department together with other wage documents.

Upon request, we will gladly send you a sample business trip settlement form. Because the area of business travel compensation is very broad, do not hesitate to contact us in the case of any questions or comments.

Yours truly,

AUDITOR team