

BDO TAX & LEGAL

REIMBURSEMENT OF COSTS PROPER TO THE EMPLOYER: HAVE YOU CONSIDERED A RULING?



Employees may be faced regularly with expenses they incur in the course of their business activities. It goes without saying that professional costs are to be reimbursed by the employer.

How to reimburse those costs?

The employer preferably reimburses the actual expenses which employees or company directors have incurred in the course of their professional or business activities. This method, however, requires time to draw up expense notes that require review. In addition, for the purposes of a potential tax inspection, the employer should be able to provide the underlying supporting documents that demonstrate that he is reimbursing costs proper to the employer.

Alternatively, the employer can also reimburse fixed business expenses, which reduces the related time consuming administrative burden significantly.

The lump sum reimbursement of costs is mostly a factual matter of justifying that the fixed amount represents actual costs made.

Need a prior agreement?

The lump sum reimbursement of costs to staff without a prior agreement from the tax authorities is perfectly legal. This is, however, not without risk. Whenever the tax authorities and the NSSO successfully dispute the lump sum reimbursement of costs, they are in the position to partly or entirely requalify the cost reimbursement as a secret commission, leading to an additional tax and social security burden. A prior agreement with the tax authorities could relieve you from this uncertainty.

Scope of the fixed reimbursement of costs

Depending of the position of the beneficiary, the ruling service generally agrees with a monthly lump sum reimbursement of costs varying between EUR 100 and EUR 250. These amounts can be revalued slightly, depending on the actual situation.

The lump sum reimbursement of costs cover different types of costs, such as:

- Car related costs
- Bring Your Own Device (BYOD)
- Home office costs for the use of a private pc, private internet, office costs, ...
- Representation costs (commercial gifts, reception costs, small incentives, ...)

The ruling service determines the amounts that can be allocated as a reimbursement of costs proper to the employer by category of costs. The ruling could therefore specify the type of costs covered by the lump sum reimbursement, implying that costs which are not covered in the ruling can still be reimbursed on the basis of underlying supporting documents provided by the employer.

Where to apply for a ruling?

The application for a ruling with the Belgian ruling service provides legal certainty about the lump sum costs that you would like to reimburse to your staff. A ruling provides legal certainty for a 5-year period during which you can reimburse the agreed lump sum amount. After this 5-year period, there is a possibility of renewing the obtained ruling or negotiating a new one.

Currently, the NSSO does not issue any rulings, but they have included in their administrative instructions an overview of the amounts for which they allow a lump sum reimbursement under predefined conditions.

The NSSO is also not bound by a tax ruling, but the ruling service generally takes its decisions in line with the position taken by the NSSO.

Questions?

Our tax experts are available to assist you in the analysis of your actual situation and in preparing a ruling request. Please contact Nancy Slegers and Nicolas Stockmans or your regular BDO contact person.



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