

The following memorandum describes the legal procedure to be employed by a company, upon receiving notification of their employees impending medical leave.

Please note that the memorandum below describes the most common situation, but it should be noted that employees with three or more children, or employees on medical leave for a work related accident or illness, may be subject to additional compensation.

OVERVIEW OF MEDICAL LEAVE INDEMNIFICATION

According to French Labour Law, an employee has the right to paid medical leave if his/her doctor prescribes more than 3 days of absence from the workplace, provided that he fulfills certain conditions as regards the duration of his recent contributions to Social Security (Please contact your chartered accountant for more information). However the collective bargaining agreements may stipulate that the employee has to be paid medical leave from the first day of absence.

The employee's medical leave indemnification may be comprised of up to 3 separate components:

- A social security payment ("Indemnités journalières de sécurité sociale" or IJSS),
- A compensation from the employee's provident fund ("Indemnités journalières de prévoyance"),
- And, sometimes, a compensation from the employer.



Social Security compensation (IJSS)

The IJSS will be paid to the employee on a daily basis, starting from his/her 4th day of medical leave (there is a waiting period of 3 calendar days at the onset of the medical leave, during which the employee receives no indemnification by the Social Security whatsoever).

Its monetary value is equal to 50 % of the employee's gross daily wage (averaged over the preceding 3 months, each month comprising $365/12=30.417$ days). However, the salary to be considered for this calculation is limited to a maximum of 1.8 "SMIC", i.e. 2517.06 € (this value, currently valid, is set by the social security services and hence is liable to change periodically). Any remuneration in excess of this threshold will not be taken into account.

By way of example, an employee earning 4000 € gross per month will receive $(2517.06 * 50\%) / 30.417 = 41.38$ € of IJSS per day throughout his/her medical leave.

The Social Security compensation is only subject to CSG-CRDS taxes, no other social contributions will be deducted.

Provident Fund compensation (Indemnités journalières de prévoyance)

The modalities of the provident fund compensation depend on the contract in force between the employer and the provident fund (contract that should be compliant with the CBA), which generally stipulate a certain duration of medical leave. As with the IJSS, the provident fund compensation is assessed on a daily basis.

For example, the contract may specify that the employee will receive an indemnification equal to 70 % of his/her normal monthly gross salary (less any IJSS received by the employee), starting from the 31st consecutive day of medical leave. In this case, an employee earning 4000 € gross per month will receive $((4000 / 30.417) * 70\%) - 41.38 = 50.67$ € of provident fund allowance per day, beginning with the 31st consecutive day of absence.

If the provident fund is co-financed by the employee and the employer, only the portion of the provident fund compensation corresponding to the employer's contribution is subject to social taxes. For example, if 60% of the provident fund contributions are supported by the employer and 40% by the employee, then 60% of the provident fund compensation will be subject to social taxes.

Employer's indemnification

The employer may, in accordance with the CBA in effect, or on his own initiative, contribute to the employee's medical leave indemnification.

In such a case, the employer will maintain a percentage of the employees' monthly salary (less any IJSS and provident fund compensation received by the employee) after a waiting period of generally 7 calendar days (but many collective bargaining agreements stipulate a shorter waiting period).

If the employee in the previous example is entitled to 90% of his gross salary, he will receive for the duration of a 31 day medical leave: $(4000*90\%) - [(41.38*28) + (50.67*1)] = 2390.69$ € of employer's allowance.

The whole compensation paid by the employer will be subject to all normal social taxes.

Please note that, according to the SYNTEC CBA, executives with at least 1 year's seniority will receive 100% of their net salary for a period of 3 months, beginning with the first day of medical leave.

SUBROGATION OF PAYMENTS

If the employee is to receive an indemnification from his employer (in addition to social security and provident fund indemnities), said employer may choose to apply the "subrogation" system : the Social Security and/or the provident fund would pay the employee's compensation to the employer's bank account, then the employer would remit these amounts to the employee through the payroll.

In order to benefit from this measure, the employer must signal his intent by completing the section of the salary certificate entitled "Demande de subrogation en cas de maintien de salaire".

ADMINISTRATIVE PROCEDURE

If the doctor prescribes medical leave to the employee, he will provide him with a "sick leave certificate" ("avis d'arrêt de travail"). The certificate comprises 3 different pages: the first two will be addressed by the employee to the Social Security, while the third will be

addressed to the employer. All pages of the "sick leave certificate" must be sent by the employee within 48 hours of the prescription, or the employee risks forfeiting his right to paid medical leave.



Upon reception of the employee's "sick leave certificate", the employer must have a salary certificate ("attestation de salaire") established by his payroll provider. This salary certificate should then be promptly sent to the Social Security, who will then determine whether the employee is entitled to a daily allowance (IJSS), and, if so, what its numeric value will be. The salary certificate may be sent to the Social Security by mail or via the internet.

If the employee's sick leave is extended/renewed, the aforementioned documents (sick leave certificate and salary certificate) must be renewed.

Furthermore, if the employee has multiple employers, each employer is required to complete a separate salary certificate.

When the employee returns to work, the employer is legally obligated to establish another salary certificate, clearly mentioning the date at which the employee returned to work.

Your best adviser is your accountant!

Do not hesitate to contact him!