

Amendments to the Ordinance on Social Security of the Self-insured and the Bulgarian Citizens Working Abroad

In the State Gazette issue 17 dated 19 February 2008 a Decree of the Council of Ministers No 22 of 8 February 2008 for Amendment and Supplementation of the Ordinance on Social Security of the Self-insured and the Bulgarian Citizens Working Abroad adopted by Decree No 30 of the Council of Ministers of 2000 was promulgated.

The Decree enters into force with backdate as of 1 January 2008.

The amendments of the Ordinance are related to:

1. The scope of labor activity, which shall be declared to the Territorial Directorate of the National Revenue Agency by the Self-insured:

By amendment of Art. 1, para 2 of the Ordinance a clarification is made that the self-insured shall declare before the respective Territorial Directorate of the National Revenue Agency (TD of NRA) the start, the interruption, the resumption or the termination of **each labor activity for which the self-insured is registered.**

The amendment is made because of the circumstance that the self-insured are subject to obligatory insurance for each registered labor activity.

The declaration under Art. 1, para 2 of the Ordinance shall be submitted in a standard form approved by the Executive Director of NRA to the competent TD of NRA within 7 days term from the occurrence of the respective circumstance. The declaration shall be signed by the self-insured.

The amendment in Art. 1, para 2 of the Ordinance and its backdate application as of 1 January 2008 implies that if the self-insured has performed labor activity on several grounds, but he/she has declared and paid social security contributions only for one of them by choice, now he/she has to declare before the respective TD of NRA the other grounds as well. **The insurance, as before the amendments, will be made through payment of advance contributions for one of the grounds for which a labor activity is performed upon the individual's discretion.** The stipulated notification term of 7 days starts from the day of promulgation of the amendments to the Ordinance in the State Gazette – 19 February 2008. Within the meaning of Art. 22, para 6 of the Tax and Social Security Proceedings Code (TSSPC), the term is calculated from the day from which it starts to run, i.e. from 20 February 2008, and expires in the end of its last day, i.e. on 26 February 2008.

It shall be taken into account that the Ordinance does not provide for a penalty for non-submission of the declaration under Art. 1, para 2. Section III of the Social Security Code “Responsibility for Nonfulfillment of the Obligations for Declaring of Data before the NRA and for Payment of the Obligatory Social Security Contributions” also does not envisage liability for the self-insured in case he/she has not declared the circumstances for starting, interruption, resumption or termination of the labor activity. The provision from which it can be drawn a conclusion that the non-submission of the declaration under Art. 1, para 2 of the Ordinance gives rise to administrative penalty for the self-insured is Art. 349, para 1 of the Social Security Code (SSC). According to the quoted legal norm, the breaching of the provisions of Part One of this code or the normative acts for their application or the non-fulfillment of obligatory instructions of a controlling authority shall be penalized with a penalty from BGN 50 to BGN 1,000, if not subject to heavier penalty. Article 4, para 8 of Part One of the SSC sets that the procedure for insurance of the self-insured and the individuals posted abroad is defined by the Council of Ministers by a proposal of the National Social Security Institute. Therefore, breaching the obligation for submission of declaration for starting, interruption, resumption or

termination of labor activity provided for in the Ordinance would be penalized with penalty from BGN 50 to BGN 1,000.

2. A prohibition is implemented for changing the type of insurance in case of interruption and resumption of the respective labor activity during the calendar year (a second sentence to Art. 1, para 3 of the Ordinance is created).

3. The amendment of Art. 2, para 3 of the Ordinance provides for **an obligation for submission of declaration in the standard form in the cases of changes of the ground or the identification code under which the insurance is carried out.**

The Ordinance does not provide for a deadline in which the declaration shall be submitted and therefore the general rules for the deadlines provided in Art. 22 TSSPC should be applied. By virtue of Art. 22, para 1 TSSPC the deadline in the administrative proceedings is 14 days when not set in the law or defined by the revenue authority. As far as a declaration is concerned that shall be submitted to the revenue administration, in case of lack of explicit deadline in a special normative act, the term for declaring should be assumed to be the one under Art. 22, para 1 TSSPC, i.e. 14 days from the change of the ground for insurance.

On the other hand, the change of the ground for insurance is connected to the starting or resumption of labor activity, respectively with its interruption or termination. In this relation, logically the deadline for declaring of the change is the one envisaged for notification of the starting, interruption, resumption or termination of each labor activity, for which the self-insured is registered, i.e. 7 days term.

4. The amendments in the Ordinance set procedure for insurance of the wives/husbands of employees posted for long-term for diplomatic service during their mandate abroad. They can insure themselves upon their discretion and on their account for disability by reason of general disease, for old age and for death or for all social security risks except for labor accident, professional illness and unemployment, on chosen social security income between the minimum and the maximum amounts set with the Law on the Budget of the State Social Security (LBSSS) for the respective year. The insurance shall be made through the posting authority of the employee posted for long-term in diplomatic service (a new Art. 17a of the Ordinance has been created).

By virtue of Art. 18 of the Ordinance, the social security contributions shall be paid till 10th of the month following the month for which they are related to or in advance by virtue of Art. 3, para 5.

The quoted Art. 3, para 5 of the Ordinance is applicable only to insurance for disability by reason of general disease, for old age and for death, as in these cases the individuals can pay in advance the monthly social security contributions due on the chosen social security income for periods chosen by them in the calendar year.

The amendments to the Ordinance settle also the possibility for issuance and certification of the social security booklets of the quoted individuals. By virtue of Art. 19, the social security booklets are issued and certified by the territorial divisions of the National Social Security Institute upon request of the organization, through which the insurance is carried out, whereas it fills-in the periods, in which the individuals have been subject to insurance.

The purpose of the information in this paper is only to point out certain issues, related to the application of the new order of taxation under the Ordinance on Social Security of the Self-insured and the Bulgarian Citizens Working Abroad of the Council of Ministers and therefore, it is not exhaustive. Should any questions about the application of the new provisions arise, please do not hesitate to contact us on telephone number: +3592 943 33 70, fax number: +3592943 37 07, e-mail:office@afa.bg or at the postal address: 1504 Sofia, 38, Oborishte Str.