

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

In France, an employee has the right to paid medical leave if his/her doctor prescribes more than 3 days of absence from the workplace (certain other conditions apply; for example, the employee must demonstrate a certain period of prior service in order to be eligible; please contact your chartered accountant for more information). 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), an indemnification from the employee's provident fund ("Indemnités journalières de prévoyance"), and, sometimes, an indemnification from the employer.

## Social Security indemnification (IJSS)

The IJSS will be paid to the employee on a daily basis, starting from his/her 4<sup>th</sup> 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 30,41 days). However, the salary to be considered for this calculation is limited to a maximum of 2946 € (this value, valid for 2011, is set by the social security services and hence is liable to change from year to year); 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  $(2946 / 30,41) * 50\% = 48,43$  € of IJSS per diem throughout his/her medical leave.

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

## Provident Fund indemnification (Indemnités journalières de prévoyance)

The modalities of the provident fund indemnification are dependent on the contract in force between the employer and the employee's provident fund, as well as any industry-wide agreements which may be in effect. In general, the compensation supplied by the provident fund provides supplementary indemnification, as of a certain duration of medical leave. As with the IJSS, the provident fund indemnification 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 salary (less any IJSS received by the employee), starting from the 30<sup>th</sup> consecutive day of medical leave. In this case, an employee earning 4000 € gross per month will receive  $((4000 / 30,41) * 70\%) - 48,43 = 43,64$  € of provident fund allowance per diem, beginning with the 30<sup>th</sup> consecutive day of absence.

If the provident fund is co-financed by the employee and the employer, only the portion of the provident fund indemnification 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 indemnification will be subject to social taxes.

## Employer's indemnification

The employer may, in accordance with the collective bargaining agreement in effect, or at his own volition, contribute to the employee's medical leave indemnification. Generally, the employer will maintain a percentage of the employees' monthly salary (less any IJSS and provident fund indemnification received by the employee) throughout a certain period, beginning with a predefined number of consecutive days of medical leave (according to French law, the waiting period is 7 calendar days, but most collective bargaining agreements stipulate more favourable conditions).

By way of example, according to the SYNTEC collective bargaining agreement, 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.

Assuming the parameters defined in the preceding examples an employee entitled to 100% of his gross salary, for the duration of a 30 day medical leave, will receive:

$4000 - ((48,43 + 43,64) * 30,41) = 1200,16 \text{ €}$  of employer's allowance.

It should be noted that compensation corresponding to the employer's contribution to the medical leave indemnification received by an employee during his/her medical leave will be subject to all normal social taxes.

## Subrogation of payments

If the employee is destined to receive an indemnification from his employer (in addition to social security and provident fund indemnities), said employer may choose, at his volition, to receive the employee's provident fund indemnification as a subrogatory payment, which would then be remitted, along with the employer's compensation, to the employee (i.e. the employee's provident fund indemnification would be paid to the employer's bank account, and would thereafter be included on the employee's payslip, along with the employer's indemnification). 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 employee's doctor deems medical leave necessary, he will provide the employee with a "sick leave certificate" ("avis d'arrêt de travail"), comprising 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 aforementioned "sick leave certificate" must be sent by the employee within 48 hours of the original medical appointment, or the employee risks forfeiting his right to paid medical leave.

Upon reception of the employee's "sick leave certificate", the employer must establish a salary certificate ("attestation de salaire") attesting to the employee's level of remuneration during the 3 preceding months. This should then be promptly sent to the Social Security, who will determine whether the employee is entitled to a daily allowance (IJSS) based on the content of the aforementioned salary certificate, 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 Chartered Accountant is your best consultant.

**Don't hesitate to contact us!**