

Social insurance - statutory representatives

Statutory representatives with the labor contract and permanent seat in SR

For the statutory representatives with the labor contract for whom the employer deducts not only the income tax advance payments but also the social and health insurance payments it is valid that by the deduction of the social insurance the obligation towards the social insurance company is settled.

The Act on health insurance considers the statutory representatives of limited liability companies as self-employed individuals. However by the payment of the health insurance after the deduction from the wage, the obligation of the statutory representative is not settled. Due to the fact that the statutory representative is considered as self-employed individual, he is obliged to pay the health insurance above the scope of his income from the dependent activities according to the act. In case that the overpayment from the health insurance will arise after the yearly reconciliation of the insurance, the health insurance companies usually agree that the statutory representatives do not have to pay the health insurance in the amount exceeding the health insurance payments from the dependent activities. Therefore we recommend to make an agreement with the health insurance company, since the application of the act in above mentioned consequences may be required without the agreement.

Statutory representatives with the mandate contract and with the contract on performing the function of statutory representative

The statutory representatives of the limited liability companies which have concluded with the company the contract on performing the function of statutory representative or mandate contract they do not earn the income from the dependent activities, but the income from the business activities defined in article 6 of the income tax act. Such statutory representatives are not obligatory involved in the social insurance, therefore they are not obliged to pay social insurance payments.

In case of health insurance it is valid that the income of the statutory representative for performing the function in the limited liability company is considered as income from the business and other self employed activity. In case that the statutory representative did not achieve the income as self employed individual in previous period, the assessment base for the health insurance did not arise and it is not possible to determine it correctly. Despite of this fact, the statutory representative is obliged to pay the payment to the insurance company at least in the amount of SKK 910. After the end of the calendar year the yearly reconciliation of the insurance will be made where the insurance will be recalculated according to the amount of the income for performing of the function of the statutory representative and possible difference on insurance must be paid by him.

With the effect from 1 August 2005 an amendment to the Act on health insurance is prepared. The amendment suggests to "reclassify" the statutory representatives from self employed individuals into the employees. As a consequence of this change the statutory representatives which do not receive any income will not be obliged to pay health insurance. The statutory representatives receiving the income will be obliged to pay the health insurance.

Based on the above mentioned the statutory representatives of the limited liability companies are obliged to pay the health insurance as of 1 January 2005 also in a case they obtained the exception and are able to evidence form E101.