

# INTERNS



The employer who intends to hire a trainee may meet two different situations :

- the mandatory internship, organised in the context of studies
- the voluntary internship, pursued with an information and orientation goal.

This note describes the regime applicable in the areas of labour law, tax and social security to the different cases.

## I. Labour Law

The labour law regulation applicable to trainees is provided by the grand-ducal decree of August 10<sup>th</sup>, 1982.

### A. Work with educational character

The work to be performed during a mandatory or voluntary internship shall have a predominantly educational character.

The grand-ducal decree of August 10<sup>th</sup>, 1982 provides that internships organised by an employer on a contractual basis between the employer and the student:

- shall have an educational character or shall help the student to orientate himself;
- shall not request the student to execute tasks requiring an efficiency comparable to that of a regular worker.

The internship contract must not be mixed with a contract for a student job during school holidays: the school holidays contract implies in particular that an effective work is carried out.

### B. Internship agreement or contract

The employer who wishes to hire an intern must sign an internship agreement with the intern and the school or university in the context of a mandatory internship, or an internship contract with the intern in the context of a voluntary internship.

### C. No minimum or maximum duration

The law does not impose a minimum or maximum duration for an internship contract. However, for long internships (i.e. an internship longer than 6 months) a real risk exists that the contract will be seen as a normal employment contract.

#### **D. Training indemnity**

Usually, the trainees who accomplish an internship in the context of their studies do not get any remuneration. The legal provisions concerning the remuneration of students working during school holidays (at least 80% of the social minimum wage of a non-qualified worker, calculated with respect to the student's age) are not applicable to interns.

Nevertheless, it is possible to pay a monthly amount or a one-time payment at the end of the internship as training indemnity for the work performed. The amount of the payment is left at the employer's discretion, corresponding to his satisfaction as to the trainee's behaviour.

No minimum or maximum limit exists for the determination of the amount paid to the intern. However, the amount has to be "reasonable", i.e. it should be aimed at covering living and meal costs that the student has to face during his internship.

In case the payment is high, a real risk exists that the contract will be reclassified as a normal employment contract. In fact, a high remuneration would make it look like the intern accomplishes a similar work as the work done by an employee of the company. In consequence of such a reclassification all the regulations concerning labour law would become applicable (employment contract, remuneration, vacation, etc.).

## **II. Social security**

In order to determine the obligation of registration of the trainee with social security it is necessary to take into consideration the place of residence of the trainee, the kind of internship (mandatory or voluntary), the schooling place (school in Luxembourg or abroad), and in certain cases the duration of the internship.

#### **A. Trainees exempt from registration with social security**

Do not need to be registered with social security the trainees who accomplish a mandatory internship and who are:

- resident trainees,
- non-resident trainees who are schooled in Luxembourg,
- non-resident trainees, who are schooled abroad and who are covered by a school accident insurance in their state of residence.

Submission of entry declaration and payment of social security contributions are not required in this case.

The internship must be well-documented with an internship agreement countersigned by the school.

#### **B. Trainees registered only with accident insurance**

Have to be registered only with accident insurance:

- non-resident trainees who are schooled abroad, accomplish a mandatory internship in Luxembourg not exceeding 3 months per calendar year and are not covered by a school accident insurance in their state of residence,

- resident trainees or non-resident trainees who accomplish a voluntary internship in Luxembourg not exceeding 3 months.

Contributions to the accident insurance are calculated on the basis of the social minimum wage for non-qualified workers (€ 2,089.75 per month at index 814.40 as from January 1<sup>st</sup>, 2019).

### **C. Trainees registered with health, pension and accident insurance**

Have to be registered with health, pension and accident insurance :

- resident or non-resident trainees who accomplish a voluntary internship exceeding three months,
- non-residents trainees who are schooled abroad, accomplish a mandatory internship exceeding three months and who are not covered by a school accident insurance in their state of residence.

Contributions are calculated on the basis of the social minimum wage for non-qualified workers (€ 2,089.75 per month at index 814.40 as from January 1<sup>st</sup>, 2019).

## **III. Taxation**

Concerning the taxation of the trainees it is necessary to distinguish between mandatory internships and voluntary internships.

### **A. Mandatory internships**

Resident and non-resident trainees accomplishing a mandatory internship get upon request to the tax authorities a tax exemption of their indemnities for the first 6 months. A certificate from the school or university and a copy of the internship agreement have to be attached to the request.

If the duration of the internship is more than 6 months the training indemnity is subject to taxation from the 1<sup>st</sup> day of the 7<sup>th</sup> month of the internship.

### **B. Voluntary internships**

Resident and non-resident trainees accomplishing a voluntary internship cannot get a tax exemption and are taxable as of the beginning of the internship.

The trainees have to hand in a tax card for the duration of the internship in order to ensure proper taxation of their training indemnities.

Concerning the non-resident trainees, the majority of tax treaties include provisions that may affect the taxation of non-resident trainees who accomplish an internship in Luxembourg.

The tax treaties with Belgium, France and Germany provide a taxation in the country where the activity is pursued, i.e. Luxembourg.

## CONTACTS

Joëlle LYAUDET  
Partner  
+352 45 123 307  
joelle.lyaudet@bdo.lu

Patricia DUPUIS  
Assistant Manager  
+352 45 123 358  
patricia.dupuis@bdo.lu

Ralf GILCH  
Assistant Manager  
+352 45 123 557  
ralf.gilch@bdo.lu

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