

News Flash

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**Methodological instructions for the
taxation of employee meal
contributions in Slovakia**

Methodological instructions for the taxation of employee meal contributions in Slovakia

On April 20, 2021, the Financial Directorate of the Slovak Republic published a methodological instruction for the taxation of meal contributions for employees, the inclusion of the employee's meal contributions in the employer's tax expenses and the inclusion of expenses (costs) for the taxpayer's own meals with income according to § 6 par. 1 and 2 of Act no. 595/2003 Coll. on income tax, as amended, to the tax expenses of this taxpayer.

The methodological instruction's purpose is to ensure a single procedure for assessing the taxation of employee's income and the application of meal expenses to tax expenses according to the Act no. 595/2003 Coll. on income tax, as amended (hereinafter referred as "ITA").

Scope and conditions for employee's catering from March 1, 2021

An amendment to the Labour Code effective from March 1, 2021 brought to most of the employees an option to choose between meal vouchers and financial contribution for meal.

As mentioned in the previous [News Flash](#), from the effectiveness of this amendment, the financial contribution for meals can be provided to all employees, with exception of those whom the employer provides meals in his own catering facility or in the catering facility of another employer.

In this context, the employer is obliged to allow his employees to choose between a meal voucher and financial contribution for meal under a condition that the employee can't change his decision within 12 months from the date of his choice.

Even though the amendment to the Labour Code came to an effect on March 1, 2021, many questions arose in connection with its application in practice. The methodological instruction published by the Financial Directorate of the Slovak Republic brought answers to these questions.

Taxation of the financial contribution for meal on the part of the employee

According to § 5 par. 7 letter b) of ITA from March 1, 2021 is exempt from income tax:

- the value of the meal provided by the employer to the employee for consumption at the workplace or meals provided through other entities, and
- financial contribution for meal provided according to a special regulation.

A) If the employer provides meals to his employees in the form of **meal vouchers** (or meal cards) whose value is comprised of the compulsory contribution of the employer according to the Labour Code, the contribution from social fund and employer's voluntary contribution for meal beyond the scope of his legal obligations arising from special regulations, then **for the employee the value of this meal voucher or electronic meal voucher (non-monetary benefit) is exempt from income tax in full amount.**

However, as is apparent from the following text, the full exemption applies only to the non-monetary benefit, thus the meal vouchers or the meal cards. In the case of the financial contributions, several factors need to be considered.

In general, **the provision of the financial contribution can't give an employee and**

advantage or a disadvantage compared to an employee who is provided with a meal voucher. However, it will not be the case at all.

If the employer provides his employee meal vouchers instead of financial contribution for meal, then the amount of the financial contribution is always based on the value of the meal voucher he provided to the employee or which he continues to provide to those employees who didn't choose the financial contribution. **The amount of the financial contribution for meal should be therefore the same as the amount in which the employers contributes to the meal voucher to other employees** (on the comparable job positions). At the same time, a condition applies that it must be at least EUR 2.11 (55 % of the minimum value of the meal voucher, i. e. for 2021 from the EUR 3.83) and the most EUR 2.81 per one shift (55 % of the meal provided during a business trip lasting 5 to 12 hours).

B) In addition to the above mentioned amounts arising from the Labour Code, the employer can also **contribute to the employee's meals by providing a meal contribution from the social fund.** Such a contribution for meals to employees is not restricted by law and thus is considered **tax-exempt for the employee.**

C) However, if the employer provides employee with **a contribution beyond the above mentioned** (for example, on the basis of an labour contract, a collective agreement or an internal directive of employer as an employee benefit), **such a contribution is already considered as an income on the part of the**

employee that is a subject to income tax from a dependant activity.

Employer's tax expenses

Since the financial contribution for meal is on the employee's side not always exempt from tax, it is necessary to answer when this contribution is considered as a tax expense on the side of the employer.

A) Tax expenses in general are **employer's contributions for employees' meals**, if they are provided under conditions laid down in a special regulation. In accordance with § 152 par. 5 of the Labour Code, the amount of the fee for provided catering services for employees via an entity that is authorized to mediate catering services through meal vouchers is a maximum of 2 % of the value stated on the meal voucher. Such a fee for provision of catering service shall be recognizes in the employer's tax expenses after payment for the service (§ 17 par. 19 letter d of the ITA).

If the employer provides the employee with a financial contribution for meal and he:

- **contributes to the meals of other employees**, the employer's tax expense will be considered **the amount in which the employer contributes to the meals of other employees in the scope according to the Labour Code**, i.e. in the amount at least 55 % of the minimum value of the meal voucher and the most 55 % of the meal provided during a business trip lasting 5 to 12 hours, i.e. **the maximum of EUR 2.81,**

- **doesn't contribute to the meals of other employees**, the employer's tax expense will be considered the amount of the financial contribution provided in the scope according to the Labour Code, i.e. **the amount from EUR 2.11 to EUR 2.81**.

B) If the employer also contributes to employees' meals with a contribution from the social fund, **the tax expense is only the creation of the social fund**, but not its absorption. **The payment of the contribution from the social fund for catering of the employees is not the employer's expense (cost)**.

C) The financial contribution for meals which based on agreement with the employee is provided by the employer as an **employee benefit** in the amount higher than its maximum amount according to the Labour Code (letter A) and is not paid from the social fund (letter B), **is for the employer a tax expense**. The recognition of such an employee benefit as employer's tax expense applies **under a condition that it has been agreed in the labour contract, collective agreement or an internal regulation of the employer and taxed to the taxpayer as an income from a dependant activity**.

Please note, that such a benefit is considered as a tax expense only in a case when it is provided as a financial contribution for meals to the employee. If the employer provides meals to his employees in the non-monetary form (e.g. meal vouchers), as such income is not taxed on the part of the employee due to tax exemption, the

employer can't claim any amount beyond the law as a tax expense.

Pay attention to the deadline for the payment of the financial contribution

Finally, we would like to point out that it is essential to pay attention to the fact that **the employer is obliged to provide meals to his employees so the employee has at his disposal meal vouchers or financial contribution on the first working day of the month**. This date is particularly important because according to the methodological instruction, **the financial contribution provided during the month, i.e. for the past days, is considered as a taxable income of the employee** because due to its late payment it didn't fulfil its purpose which is to provide a meal to employee.

Simply said, it is not recommended to provide the financial contribution for meals for the current month together with the salary for the previous month.

An example: The employer will pay the employee a salary for April together with the financial contribution for meals for May on May 20. Due to the fact that the employee doesn't have a financial contribution available on the first working day of the given month, the contribution doesn't fulfil its purpose. Therefore, from May 1 to May 19, it is considered a taxable income on the part of the employee.

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