UREDBA
O KRITERIJUMIMA ZA DODELU PODSTICAJA POSLODAVCIMA KOJI ZAPOŠLJAVAJU NOVONASTANJENA LICA U REPUBLICI SRBIJI
("Sl. glasnik RS", br. 67/2022)

Vlada Republike Srbije donela je dana 18.06.2022. godine Uredbu o kriterijumima za dodelu podsticaja poslodavcima koji zapošljavaju novonastanjena lica u Republici Srbiji (u daljem tekstu: **Uredba**).

Poslodavac koji ima pravo na povlastice je domaće ili strano *fizičko lice*, odnosno *pravno lice* ili *preduzetnik* registrovan za obavljanje delatnosti u Republici Srbiji, kao i *ogranak* i *predstavništvo* stranog poslodavca registrovani za obavljanje delatnosti u Republici Srbiji.

Novonastanjenim licem smatra se fizičko lice koje:

- u periodu od 24 meseca, koji prethode danu zaključenja ugovora o radu sa poslodavcem, nije boravilo na teritoriji Republike Srbije više od 180 dana,
- sa kojim je poslodavac zaključio ugovor o radu na neodređeno vreme sa punim radnim vremenom,
- ima ugovorenu mesečnu osnovnu zaradu u skladu sa propisom kojim se uređuje rad od najmanje 300.000,00 dinara.

DECREE
ON THE CRITERIA FOR GRANTING INCENTIVES TO EMPLOYERS WHO EMPLOY NEWLY SETTLED PERSONS IN THE REPUBLIC OF SERBIA
("Official Gazette of RS", No. 67/2022)

The Government of the Republic of Serbia adopted on 18 June 2022 the Decree on the criteria for granting incentives to employers who employ newly settled persons in the Republic of Serbia (hereinafter: the **Decree**).

An employer who is entitled to incentives is a domestic or foreign *natural person*, i.e. *a legal entity* or an *entrepreneur* registered to perform business activities in the Republic of Serbia, as well as a *branch* and *representative office* of a foreign employer registered to perform business activities in the Republic of Serbia.

A newly settled person is a natural person who:

- in the period of 24 months, preceding the day of concluding the employment agreement with the employer, did not stay in the territory of the Republic of Serbia for more than 180 days,
- with whom the employer concluded an employment agreement for an indefinite period of time with full worktime,
- has a contracted monthly basic salary in accordance with the labor

regulations at least 300,000.00 dinars.

Vrste podsticaja i njihova visina

Pomenutom Uredbom predviđene su sledeće vrste podsticaja, u procentima kako je dalje navedeno:

1) 70% obračunatog i uplaćenog poreza na zarade, u smislu propisa kojima se uređuje porez na dohodak građana;

2) 100% obračunatih i uplaćenih doprinosa za obavezno penzijsko i invalidsko osiguranje, u smislu propisa kojima se uređuju doprinosi za obavezno socijalno osiguranje.

Navedeni podsticaji odnose se na isplate izvršene za zaposleno novonastanjeno lice u periodu od najviše 60 meseci, počev od 1. jula 2022. godine i zaključno sa 31. decembrom 2028. godine.

Da bi imao pravo na ove podsticaje, poslodavac je dužan da prilikom podnošenja zahteva ima isti ili veći broj zaposlenih od broja zaposlenih na neodređeno vreme koje je imao na dan stupanja na snagu ove Uredbe.

Poslodavci koji nemaju pravo na podsticaje iz ove Uredbe

Pravo na korišćenje podsticaja nema poslodavac koji:

Types of incentives and their amount

The aforementioned Decree foresees the following types of incentives, in percentages as stated below:

1) 70% of the calculated and paid salary tax, in terms of the regulations governing personal income tax;

1) 100% of the calculated and paid contributions for mandatory pension and disability insurance, in terms of the regulations regulating contributions for mandatory social insurance.

The mentioned incentives refer to payments made for an employed newly settled person in a period of a maximum of 60 months, starting from 1 July 2022, and ending on 31 December 2028.

In order to be entitled to these incentives, the employer is obliged to have the same or greater number of employees at the time of application than the number of permanent employees he had on the date of entry into force of this Decree.

Employers who are not entitled to incentives from this Decree

The right to use incentives is not granted to an employer who:

1) u periodu od podnošenja prve prijave i zaključno sa istekom kalendarske godine u kojoj primi poslednju isplatu podsticaja vrši isplatu dividende, odnosno ostvarene dobiti (osim dividende ili dobiti koja se isplaćuje iz dela dobiti koji je viši od iznosa koji je primljen na ime podsticaja);

1) in the period from the submission of the first application and ending with the end of the calendar year in which he received the last incentive payment, he pays dividends, i.e. realized profits (except for dividends or profits that are paid out of the portion of the profit that is higher than the amount received on behalf of the incentives);

2) je korisnik državne pomoći u vezi sa kojom ima obavezu zapošljavanja, osim obveznika koji su tu obavezu već ispunili zaključno sa 1. julom 2022. godine;

2) is a beneficiary of state aid in connection with which he has an employment obligation, except for obligees who have already fulfilled that obligation as of 1 July 2022;

3) ima zaposleno novonastanjeno lice za koje već ostvaruje podsticaje propisane ovom Uredbom ili za koje je koristio pravo na umanjenje osnovice u skladu sa članom 15v Zakona o porezu na dohodak građana i članom 15a Zakona o doprinosima za obavezno socijalno osiguranje.

3) has employed a newly settled person for whom he already receives the incentives prescribed by this Decree or for whom he exercised the right to a reduction of the base in accordance with Article 15v of the Law on Personal Income Tax and Article 15a of the Law on Contributions for Mandatory Social Security.

Neophodni akti za podnošenje prijave, nadležnost za odlučivanje i rok

Necessary documents for submitting an application, jurisdiction and deadline

Akti za podnošenje prijave su:

1) Obrazac – nalazi se u sklopu Uredbe i čini njen sastavni deo;
2) Pisana izjava novonastanjenog lica – takođe se nalazi u Uredbi.

Documents for submitting the application are:

1) Form – it is part of the Decree and is an integral part of it;
2) Written statement of the newly settled person - it is also found in the Decree.

Prijava se podnosi Ministarstvu nadležnom za poslove privrede u periodu od 15. do 30.

The application is submitted to the Ministry responsible for economic affairs in the period septembra.

Rok za odlučivanje po prijavi iznosi 120 dana od dana isteka roka za podnošenje prijave.

Slučajevi gubitka prava na podsticaje

Poslodavac gubi pravo na celokupan iznos podsticaja i dužan je da izvrši povraćaj tako dobijenih sredstava, ako:

1) isplati dividendu, odnosno ostvarenu dobit suprotno članovima ove Uredbe;

2) ako iskoristi pravo na umanjenje osnovice za novonastanjena lica u skladu sa članom 15v Zakona o porezu na dohodak građana i članom 15a Zakona o doprinosima za obavezno socijalno osiguranje;

Osim toga, poslodavac koji u periodu nakon 31. decembra 2023. godine smanji broj zaposlenih na neodređeno vreme sa punim radnim vremenom gubi pravo na podsticaje i ne može nakon toga da podnosi prijavu za podsticaje, a ako je ostvario pravo na podsticaje po osnovu prijave za podsticaje koju je podneo u godini u kojoj je smanjio broj zaposlenih na neodređeno vreme dužan je da izvrši povraćaj punog iznosa podsticaja koje je primio po osnovu te prijave.

Zaključak

from 15 September to 30 September.

The deadline for making a decision on an application is 120 days from the date of the deadline for submitting the application.

Cases of loss of incentive rights

The employer loses the right to the entire amount of incentives and he is obliged to return the received funds, if:

1) pays the dividend, i.e. the realized profit contrary to the articles of this Decree;

2) if use the right to reduce the base for newly settled persons in accordance with Article 15c of the Law on Personal Income Tax and Article 15a of the Law on Contributions for Mandatory Social Insurance;

Besides that, an employer who, in the period after 31 December 2023, reduces the number of employees for an indefinite period with full-time work, loses the right to incentives and cannot thereafter submit an application for incentives, and if he has obtained the right to incentives on the basis of an application for incentives that filed in the year in which he reduced the number of permanent employees is obliged to refund the full amount of incentives he received based on that application.

Conclusion

Imajući u vidu uslove navedene u ovoj Uredbi, ali i specifičnost odredbi koje se odnose na strance u postupku dobijanja radne dozvole u Republici Srbiji, ostaje da se vidi da li će i u kojoj meri ova Uredba biti sprovodiva u praksi.

Monja Novaković
Advokat, Rokas Beograd

Bearing in mind the conditions stated in this Regulation, as well as the specificity of the provisions related to foreigners in the process of obtaining a work permit in the Republic of Serbia, it remains to be seen whether and to what extent this Decree will be enforceable in practice.

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