Double holiday pay for white-collar workers - a recap


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When an employee takes paid annual holidays – which he has built up during the previous calendar year – the employer will be required to pay (single and double) holiday pay. As most employers calculate and pay out the double holiday pay in May (for the entire workforce at the same time), we thought this was the perfect time for a refresher on the principles of calculating the double holiday pay of white-collar workers.

The current newsletter only discusses holiday pay for employees in service, not leave and anticipated holiday pay. Particular holiday schemes such as starter holidays, senior holidays or European holidays are not covered here either.

Double holiday pay

Double holiday pay is a supplementary amount of holiday pay that an employee receives and which is equal to 92% of the gross monthly salary of the employee. Employees who did not perform full-time services during the preceding calendar year will receive 1/12th of that amount per month of services performed (or considered equivalent) in the preceding calendar year.

The double holiday pay is paid out once a year. In theory, this should happen in the month during which the employee concerned takes his main holidays. In practice, however, most employers pay out the double holiday pay in the month of May, as it is more practically convenient for an employer to make all the double holiday pay calculations – i.e. of the entire workforce – at the same time.

Calculation of double holiday pay

Double holiday pay is calculated on both the fixed and the variable salary elements of the employee’s remuneration package, but only insofar as these salary elements are subject to regular social security contributions.

1. Fixed salary

For the calculation of double holiday pay on fixed salary, account has to be taken of the fixed salary components (if subject to regular social security contributions) of the month in which the employee’s main holidays take a start. As indicated above, in practice, the gross monthly salary of the month of May is considered.

Examples of salary components are:

Fixed salary element	Included in calculation base for double holiday pay?
Base salary	Yes
Private use mobile phone/laptop/iPad	Yes
Private use company car	No
Year-end premium	No
Meal vouchers	No
Eco vouchers	No
Premiums into pension plan	No
Premiums into hospitalisation plan	No
Reimbursements cost proper to employer	No

2. Variable salary

Under Belgian law, for employees whose remuneration is (partially) variable, holiday pay has to be calculated also on these variable remuneration components, provided these remuneration components are subject to regular social security contributions.

The law defines variable remuneration components as commissions, extra payments, percentages, discounts and, more generally, variable bonuses of which the attribution is linked to an assessment of the employee's performance, the employee’s productivity, the company’s/a company division’s result or any criterion making the payment uncertain and variable, notwithstanding the periodicity or the time of payment of such bonuses.

The Belgian Supreme Court added to this that, where the attribution or payment of the remuneration component is certain yet only the amount of the remuneration component is variable, the remuneration component should not be considered as variable salary for the calculation of holiday pay.

Bonuses of which the entitlement is already certain (i.e. the employee is certain that he will receive a bonus), with only the exact amount of the bonus being still variable, would therefore not be subject to holiday pay.

However, as the question of whether the attribution of a bonus is certain or not entails a highly factual assessment causing a lot of discussions, employers often decide to take a prudent approach and calculate and pay holiday pay on bonuses of which it might be argued that the attribution is nevertheless certain.

A particular remark should also be made here in respect of single holiday pay on variable salary itself being considered as variable salary. This is because the Belgian Supreme Court has (repeatedly) confirmed explicitly that the single variable holiday pay received by the employee has to be considered as part of the calculation base for determining the (single and double) holiday pay of the next year.

Time of calculation

For calculating the double holiday pay on variable salary, account has to be taken of a monthly average of all gross variable salary elements received by the employee during the 12 months preceding the month during which the main holidays of the employee take a start. For calculating the single holiday pay on variable salary, account has to be taken of a daily average of all gross variable salary elements received by the employee during the 12 months preceding the month during which the day of annual holidays concerned is taken.

In practice, however, we see that most employers calculate (both the single and the double) holiday pay on each variable salary element (separately) at the time when the variable salary element concerned is paid out, or once a year (combined) in the month of the main holidays, which is generally in May.

Social security and tax treatment of double holiday pay

Double holiday pay (92% of gross monthly salary)	Social security contributions		Withholding taxes
	Employer	Employee	Employer

85% of gross monthly salary	/	Special contribution of 13,07%	According to exceptional scales (to be withheld by employer)
7% of gross monthly salary (referred to as additional double holiday pay)	/	/	According to exceptional scales (to be withheld by employer)