IF ADVISORY

NEWSLETTER

Director's fees/attendance fees: strengthened control regarding social security

*Attendance fees' purpose aims to remunerate directors for attending board meetings of public limited companies**[1]**, while director's fees are more intended to remunerate directors' performance by giving them a part of the profit as a reward for their good management.*

In practice, the single umbrella term « director's fees » is often used to cover both attendance fees and director's fees.

Be it director's or attendance fees, both constitute an income derived from an independent intellectual activity. As such, they are subject to social security contributions**[2]**.
For several months, the Centre Commun de la Sécurité Sociale (CCSS) closely monitors directors' obligations regarding registration with the self-employed scheme and social security contribution payment on director's fees in the wide sense.

Based on information provided by the direct tax administration (further to the filing of the director's income tax return), the CCSS may require the payment of social security contributions on director's fees for the last five years.

If the director earns employment income**[3]** in addition to his director's fees, he may ask the CCSS to limit the calculation of social security contributions on director's fees for the work accident insurance (rate of 1%) and the dependence insurance (rate of 1.4%) provided that his employment income exceeds the threshold of €119,915.16 as of January 1st, 2017. If he has not submitted such a request during the year concerned, he will be able to ask for the reimbursement of contributions paid in excess.

Potentially, this obligation of registration with the CCSS also applies to Luxembourg non-resident directors/managers if they are subject to the Luxembourg legislation in accordance with the EC Regulation n ° 883/04 of 29.04.2004 concerning the coordination of social security systems.

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[1] See the managers of Sàrl.
[2] It can be applied a social security exemption provided that the director's fees do not exceed one third of the minimum social salary, i.e. €7.994.36 per year, at the index 794.54.
[3] For which he pays employee social security contributions.

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