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**INCOME FROM EMPLOYMENT**

**TAX TREATMENT OF INCOME OF WORKERS POSTED ABROAD**

**Detailed description**

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**CONTENTS**

[1.0 REGULATION UNDER LABOUR LAW 3](#_Toc160526740)

[1.1 Role of FURS in obtaining the A1 certificate 5](#_Toc160526741)

[2.0 DETERMINING THE SOURCE OF INCOME AND THE PAYER OF TAX 5](#_Toc160526742)

[3.0 TAX BASE 7](#_Toc160526743)

[3. 1 Tax base from the income of civil servants posted abroad 7](#_Toc160526744)

[3.2 Special tax base for the transnational performance of work 7](#_Toc160526745)

[3.2.1 Research work of a researcher, and posting between related undertakings 9](#_Toc160526746)

[3.3 Period of posting for the transnational performance of work 10](#_Toc160526747)

[4.0 INCOME TAX PREPAYMENT CALCULATION 11](#_Toc160526748)

[4.1 International treaties on the avoidance of double taxation 11](#_Toc160526749)

[4.2 Tax treatment of Slovenian residents posted abroad 12](#_Toc160526750)

[4.3 Tax treatment of non-residents posted abroad 13](#_Toc160526751)

[5.0 BASIS FOR THE CALCULATION AND PAYMENT OF CONTRIBUTIONS 14](#_Toc160526752)

[5.1. Basis for the calculation and payment of contributions – applicable until 31 December2023 14](#_Toc160526753)

[5.2. Basis for the calculation and payment of contributions – applicable from 1  January 2024 15](#_Toc160526754)

[6.0 REIMBURSEMENT OF WORK-RELATED EXPENSES 15](#_Toc160526755)

[6.1 Reimbursement of meal expenses in connection with a temporary posting abroad (effective from 1  January 2018 onwards) 16](#_Toc160526756)

[6.2 Reimbursement of travel expenses 17](#_Toc160526757)

[6.3 Reimbursement of overnight accommodation expenses connected with a temporary posting abroad 17](#_Toc160526758)

[6.4 Reimbursement of expenses connected with a business trip 18](#_Toc160526759)

[6.5 Separation allowance and field allowance 18](#_Toc160526760)

[7.0 PAYMENTS TO AND FROM THE BUAK FUND 19](#_Toc160526761)

[7.1 Disbursements from the BUAK fund 20](#_Toc160526762)

[8.0 FILING OF REK FORMS 21](#_Toc160526763)

1.0 REGULATION UNDER LABOUR LAW

Labour law as it relates to posted workers is governed by the Employment Relationships Act [(ZDR-1](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5944) Articles 208, 209 and 210). The provisions of the ZDR‑1 on the reimbursement of work-related expenses (Article 130) and the payment of annual leave allowances (Article 131) also apply to posted workers.

A posted worker is a person who is employed in the territory of one country, as a general rule in the country of the employer’s place of establishment, and is posted by the employer to the territory of another country, on the basis of provisions laid down in employment contracts, in order to carry out certain work there. Under Directive 96/71/EC, Slovenian undertakings have three ways in which they can provide transnational services using posted workers in the territory of the EU:

* post workers to the territory of a Member State on its account and under its own direction, under a contract concluded between the undertaking making the posting and the party for whom the services are intended, provided there is an employment relationship between the undertaking making the posting and the worker during the period of posting; or
* post workers to an establishment or to an undertaking owned by the group in the territory of a Member State, provided there is an employment relationship between the undertaking making the posting and the worker during the period of posting; or
* as a temporary employment undertaking or placement agency, hire out a worker to a user undertaking established or operating in the territory of a Member State, provided there is an employment relationship between the temporary employment undertaking or placement agency and the worker during the period of posting.

For the purposes of determining the tax treatment of the income of posted workers, it is immaterial whether they are workers posted abroad for whom the employer obtains an A1 certificate under Article 12 or Article 13 of Regulation (EC) No 883/2004 on the coordination of social security systems, or whether they are posted to work in third countries. While the tax treatment covered by this detailed description applies to posted workers, the determination of whether a worker is posted abroad is subject to labour law, which lies within the remit of the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MDDSZ).

The provisions of Articles 208 and 209 of the ZDR‑1 regulate the specific characteristics of the employment status of a worker who has been temporarily posted abroad by an employer. Inter alia and pursuant to Article 209 of the ZDR‑1, where a worker is temporarily posted abroad the employment contract also includes, in addition to the compulsory elements under Article 31 ZDR‑1, provisions on the duration of the work abroad, public holidays and non-working days, the amount of the salary and the currency in which it is to be paid, supplementary insurance for healthcare services abroad, other remuneration in cash or in kind to which the worker is entitled while working abroad, the manner of guaranteeing and exercising rights in connection with remuneration for work and other remuneration that, in accordance with the regulations of the country in which the work is being performed, is provided in another manner (although at least to the extent guaranteed by the act or in a more favourable manner), and the conditions of return to Slovenia. For more information on the labour law regulation of the position of posted workers, see the MDDSZ [website](http://www.napotenidelavci.si/sl/) and [Posting of workers abroad | GOV.SI](https://www.gov.si/teme/napotitev-delavcev-na-delo-v-tujino/).

In the case of a temporary posting abroad, the worker carries out work abroad for the employer that posts them, and remains in an employment relationship with that employer. In this case, the posted worker is not permitted to conclude an additional employment contract with the employer abroad to whom they have been posted. Additional employment is limited by the provision of Article 66 of the ZDR‑1, which provides for the possibility of a worker combining several part-time employment relationships on the basis of several part-time employment contracts concluded with different employers. This is subject to the condition that the total working time does not exceed the full-time working time laid down by law.

If the worker also has an employment contract with an employer abroad, they are not treated as being posted abroad but as a worker with a contract with a foreign employer.

Under EU rules, a worker posted abroad to the EU continues to be covered by the social security scheme of their home country. The coordination of social security systems ensures that the social security rights that have been acquired are maintained regardless of whether the worker has worked for a certain period of time in one country, then left that country and gone to work in another country. The formal legal basis for maintaining these rights between EU Member States is [Regulation (EC) No 883/2004](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004R0883:20130108:SL:HTML) and its implementing [Regulation (EC) No 987/2009](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009R0987:SL:NOT). This means that a worker posted abroad remains insured in the country of basic employment – for example, if a Slovenian employer posts the worker to work in another EU country, the country of basic employment is Slovenia. The employer is required to obtain an appropriate A1 certificate from the [Health Insurance Institute](https://www.zzzs.si/) (ZZZS) for a worker of this type. This enables the worker abroad to prove that they are covered by social security in their home country. The conditions for obtaining an A1 certificate for workers posted abroad under Article 12 of Regulation (EC) No 883/2004 are laid down in the Transnational Provision of Services Act [(ZČmIS)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7438).

With regard to the tax treatment of income earned by workers abroad, a distinction must also be made between a posting abroad and a business trip abroad. As this distinction is not specifically defined in the tax rules, we base the definition on the rules governing labour law.

The ZDR‑1 provides for an employee’s right to a reimbursement of expenses incurred during a business trip, but does not define the term ‘business trip’. However, under case-law a business trip is a trip that does not constitute regular work at the employer’s registered office or at a place agreed in the employment contract (Judgment I U 149/2010, Judgment X Ips 387/2011, Judgment VIII Ips 215/2007).

The following is a summary of the explanation provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities regarding the use of [the institution of posting abroad](https://www.gov.si/teme/napotitev-delavcev-na-delo-v-tujino/) or that of the business trip.

Under the provisions of the ZDR‑1, all workers who have been posted to carry out temporary work abroad under the direction, on behalf of and with payment from their employer are regarded as posted workers regardless of the basis of their insurance, since both a worker temporarily posted abroad and treated in accordance with Article 12 of the Regulation and a worker posted abroad for the purpose of simultaneously pursuing employment activities in two or more EU Member States and treated in accordance with Article 13 of the Regulation have the same employment status under the ZDR‑1. For the purposes of distinguishing between a business trip and a posting in practice, it is therefore necessary to carry out an overall assessment of the circumstances of each individual case, on the basis of the following criteria:

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| CRITERION | POSTING  | BUSINESS TRAVEL |
| Worker’s type of work | The work is carried out as the transnational provision of a service within the scope of the activities set out in the undertaking’s memorandum of association or articles of association | The work is necessary for the existence and performance of the undertaking’s activity, but does not represent the direct provision of a service by the undertaking |
| End-user of the service | Recipient of the service | Employer |
| Employer’s income | The employer expects direct, contractually agreed payment for the work carried out by the worker | The employer does not expect direct payment for the work carried out by the worker |
| Other country’s market | The undertaking directly enters the market of the other country and competes with other undertakings on that market | The undertaking does not enter the market of the other country directly and does not compete with other undertakings on that market |

Looking at the provisions of the [ZDR‑1](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5944) (Articles 208 and 209), we can conclude that:

* it is a posting abroad when it is apparent from the content of the relationship that a posting abroad was agreed upon (e.g. under a new employment contract or an addendum to an existing contract);
* it is business travel when the employer sends the worker to work abroad on the basis of a travel order for a business trip, subject to the aforementioned criteria.

1.1 Role of FURS in obtaining the A1 certificate

To verify the conditions laid down by law for obtaining the A1 certificate, the tax authority, pursuant to Article 22 [of the ZČmIS,](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8529) transmits data on the current accounts registered in the tax register and any blocking of those accounts, on the submission of withholding tax returns for income from employment (hereinafter: REK form), on the settlement of tax liabilities, and on final fines imposed for offences in relation to undeclared employment. Based on the employer’s application through the ZZZS system, all this data is automatically obtained through the link established between FURS and the ZZZS.

The employer may not submit an application for an A1 certificate if it is established, during the process of completing the application, that the applicant does not meet the conditions referred to in the second indent of Article 4(2), the second indent of Article 4(3) or the third indent of Article 5(2) of the ZČmIS. In this case, the employer must eliminate the reasons why the application was rejected.

If the reason for the rejection of the application is that the taxable person:

* has no current account registered in the tax register, they must register their account in the tax register;
* has a blocked current account, they must settle their liabilities so that at least one of their accounts in Slovenia is not blocked;
* has outstanding tax liabilities, they must settle them; or
* has not submitted all the REK forms for the past six months, or for the period from their establishment if that period is shorter than six months, they must **submit them, provided that the income** from employment has been paid.

After eliminating the reason for rejecting the application, the employer may resubmit the application to ZZZS through the eVEM system. If the data in the eVEM system has not been updated by the day the application is resubmitted, the employer may apply for the certificate at the competent financial office by demonstrating that it has eliminated the reasons why the application was originally rejected. FURS automatically places the issued certificate in the ZZZS system for the issuing of A1 certificates.

2.0 DETERMINING THE SOURCE OF INCOME AND THE PAYER OF TAX

Pursuant to Article 8 of the Personal Income Tax Act [(ZDoh‑2),](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4697) the source of income is Slovenia if it is possible to determine the source of income in Slovenia under any of the provisions of the second chapter of Part II of the act. The basic rule for the taxation of income from employment in Slovenia is set out in Article 9 of the ZDoh‑2. Under this provision, income from employment is regarded as originating (earned) in Slovenia when the employment or services are physically carried out in Slovenia, regardless of where or from where that income was actually paid.

Pursuant to Article 10 [of the ZDoh-2,](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4697) income originates in Slovenia if the income has been paid by or charged to a person resident under that act or under the law governing corporate income tax, or by the place of business of a non-resident under that act or the law governing corporate income tax. That provision thus extends the Slovenian source of income by applying two criteria: the location of the payer, and its consideration when the payer’s tax base is being calculated:

* the location of the payer: this criterion is met if the income is paid by a person (or charged to a person) resident in Slovenia (regardless of the technical implementation of the income payment itself);
* an additional criterion is that the amounts of income from employment are deemed to be a personal allowance when the tax base of a payer taxable in Slovenia is calculated.

The second criterion comes from Article 10 of the ZDoh‑2, which provides that income from employment and from the provision of services paid by or charged to a person resident under the ZDoh‑2 or the law governing corporate income tax originates in Slovenia if, under the ZDoh‑2 or the law governing corporate income tax, it is deemed to be a personal allowance when the tax base of the resident deriving from sources inside Slovenia is being calculated, or if it would be a personal allowance if the resident had been a taxable person, i.e. would not have been exempt from income tax or corporate income tax.

An undertaking registered in Slovenia with a place of business abroad will meet the second criterion when it records all income and expenditure in its books that has been generated by its place of business abroad. Therefore, in those cases, income from employment paid by the Slovenian undertaking’s place of business in another country is borne in the first stage by that place of business, and borne by the Slovenian undertaking alone in the final stage, since, as an expenditure, it reduces its tax base in Slovenia.

A payer of tax who is, under Article 125(3) of the ZDoh‑2, a person who pays income taxable under that act, is obliged to calculate the income tax prepayment with withholding tax, unless the Tax Procedure Act [(ZDavP‑2)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4703) provides otherwise. According to the definition under Article 58 of the ZDavP‑2, in order to be assigned the status of a payer of tax, the person is required to meet the requirements on legal form, presence in Slovenia and method of payment of income tax (situations defined in points 1 to 8 of the first paragraph and the specific characteristics in other paragraphs of that article). Point 1 of Article 58(1) of the ZDavP‑2 provides that a payer of tax in this paragraph is a person who pays, on their own account, the income from which the withholding tax is calculated, deducted and paid pursuant to this act or the law governing taxation.

In the light of the above, an employer that posts a worker abroad is deemed to be a payer of tax required to charge, deduct and pay the income tax prepayment and related social security contributions from the income, regardless of the technical implementation of the income payment itself.

An employment relationship is considered to be a bilateral contractual relationship in which the worker carries out work in return for payment. The employer’s obligation to provide appropriate remuneration in exchange for the worker personally carrying out the work is the fundamental contractual obligation of the employer arising from the provisions of the Employment Relationships Act [(ZDR‑1)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5944). In the light of the above, employers that post their workers abroad are obliged to provide the worker with appropriate remuneration.

The rules regarding the posting of workers abroad are explained in the guide to legislation used for workers in the EU, EEA and Switzerland (hereinafter: handbook). Workers who have been posted abroad by their employer are considered to be carrying out the activity on behalf of the employer, meaning that for the duration of the posting there must be a direct relationship between the posted worker and the employer that posted them. Point 4 sets out the criteria that apply to the direct relationship. These include the fact that the obligation to pay personal income to workers remains with the undertaking that concluded the employment contract. This does not affect agreements between the employer in the country from which the worker has been posted and the employer in the country in which the worker carries out the work on the method of actual payment of income to workers.

With due regard to the above, cases in which the payment of social security contributions without net income payment (or the payment thereof by a foreign undertaking) is agreed may only be considered on the basis of the assumption that the foreign undertaking has paid income to the worker on behalf of the Slovenian undertaking, and the gross salary was actually received or made available by the Slovenian employer. This basis also triggers the obligation to calculate, withhold and pay the employee’s contributions and the income tax prepayment, and to calculate and pay the employer’s contributions. The employer is therefore also a payer of tax under Article 58 of the Tax Procedure Act ([ZDavP‑2](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4703)), and must complete the calculation of contributions in the withholding tax return (REK form) at the same time as the calculation of the withholding tax on the income paid.

3.0 TAX BASE

Under the Personal Income Tax Act [(ZDoh-2)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4697), all income is taxed, except that which has been explicitly stated in the act as not subject to taxation or exempt from income tax. Article 36 of the ZDoh‑2 defines income from employment and Article 37 further defines [income from an employment relationship](http://www.fu.gov.si/davki_in_druge_dajatve/podrocja/dohodnina/dohodnina_dohodek_iz_zaposlitve/). Article 41 of the ZDoh‑2 sets out the base for income tax on income from employment, while Article 44 of the act details the income from employment that does not count towards the tax base.

The tax base from income from employment is the income received, including benefits (bonuses) and the reimbursement of expenses (during work, which counts towards the tax base), reduced by the compulsory social security contributions that an employee is obliged to pay in accordance with special regulations (Article 41(1) of the ZDoh‑2). If a special tax base is applied pursuant to Article 45a of the ZDoh‑2 (Section 3.2 of this document), the tax base is reduced by the entire amount of the contributions charged, regardless of whether they have been charged on the whole of the income or a salary comparable to that for the same work in Slovenia. For more information on the tax base, see the detailed description of Income from Employment, available on [the FURS website](https://www.fu.gov.si/davki_in_druge_dajatve/podrocja/dohodnina/dohodnina_dohodek_iz_zaposlitve/).

3. 1 Tax base from the income of civil servants posted abroad

Only the income or parts of the income from employment that correspond, in content and scope, to the income from employment that they would have received for the same work in Slovenia count towards the tax base from the income from employment of a civil servant and public official posted to work abroad. This means that the part of the income from employment that such employees receive solely as a result of the posting abroad, including allowances and bonuses connected with the posting abroad and to which civil servants posted abroad are entitled under other regulations (Article 42(1) of the Personal Income Tax Act [(ZDoh‑2)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4697), does not count towards their tax base of income from employment.

The tax base is set by law at the level of the salary the civil servant would have received had they carried out the work in Slovenia. The tax base, which does not represent the income actually received but is set at the amount of the salary for the same work in Slovenia, does not change in cases of justified absence not defined in Article 5 of the [Decree](http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED5028) on the salaries and other receipts of civil servants for work abroad if the employee takes annual leave or is absent for medical reasons.

3.2 Special tax base for the transnational performance of work

Article 45a of the Personal Income Tax Act [(ZDoh‑2)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4697) lays down a special tax base for income from employment that a worker has received since **1 January 2018** within the scope of posting outside the country. An amount of income equivalent to 20% of the salary, i.e. the salary allowance (gross amount) received for carrying out the work within the scope of that posting, but not more than EUR 1 000 for payments in an individual month, does not count towards the tax base if the following cumulative conditions are met:

1. the worker was posted from Slovenia or to Slovenia;
2. the posting lasts for a continuous period of more than 30 days;
3. the habitual place of work before the posting was more than 200 km away by the shortest road route from the place of posting;
4. during the five years prior the start of the first posting, the worker was not a Slovenian resident before being posted to Slovenia, or a resident of another country before being posted from Slovenia;
5. the employment contract guarantees a salary for the work to be carried out within the scope of the posting in the amount of at least 1.5 times the last-known average annual wage of employees in Slovenia, calculated on a monthly basis and published by the Statistical Office of the Republic of Slovenia. According to the information on the average wage in 2022 (EUR 2 023.92), the special tax base may be claimed if the salary amounts to at least EUR 3 035.88 (applicable from 28  February 2023 to 28  February 2024).

**The following cumulative conditions must be met** for a more favourable tax treatment of incomes:

* **time-related** – the posting must last for a continuous period of more than 30 calendar days, where any business or private trips from the place of posting during that time has no effect on the condition of continuity.
* **time limit** – a more favourable tax treatment may be claimed for incomes paid during the period of ten years from the first posting, the reason being that postings are essentially temporary in nature, and the wish to pursue the goal of transferring knowledge that the worker acquires abroad back to Slovenia; for workers posted to Slovenia, in order to ensure the principle of equality it is also necessary to limit the maximum period of time in which tax benefits can be claimed if the posting turns into permanent employment in Slovenia. Liable persons are permitted exemption from the tax base for comparable incomes for 60 months regardless of whether there were interruptions of employment in the meantime or the worker was continuously employed by one employer or not. In order for the employer to correctly take the special tax base of an individual worker into account, Article 19 of the Tax Procedure Act was supplemented to provide a legal basis for disclosure by the tax authority, at the employer’s request, of information on the number of months for which an individual taxable person employed by it has already claimed a special tax base/transnational posting in accordance with the law governing personal income tax and the information on the starting date of the first posting for which the special tax base was claimed. The tax authority may disclose that information for a period of ten years from the first transnational posting.
* **distance of the posting** – the distance between the habitual place of work and the place of the posting abroad must be such that daily migrations from (or to) Slovenia are no longer economically viable, i.e. not less than 200 km.
* **(non)-residence** – another condition that must be met to claim the special benefit is that a foreign national posted to Slovenia was not a Slovenian resident in the five-year period prior to starting the posting to Slovenia, or that the worker posted abroad from Slovenia was not a resident of the country of the posting in the five-year period prior to the posting from Slovenia.

Under Article 45a(2) of the ZDoh‑2, the special tax base may be taken into account for a posting if the **following cumulative conditions are met**:

1. the worker has been posted outside the country of the employer’s place of establishment;
2. the posting is performed pursuant to an employment contract concluded under the law of the country from which the worker is posted;
3. the employment contract was concluded between an employer that is established in the country from which the worker is posted and actually pursues its activity in the country in which it is established as well, and a worker who habitually works for the employer in the country in which the employer is established;
4. the employment contract was concluded for the performance of work within the scope of the employer’s activities in the country of the posting, on behalf and for the account of the employer referred to in the previous point pursuant to a contract between the employer and the recipient of the service; and
5. for the duration of the posting, the worker works under the instruction and supervision of the employer that posted them.

Pursuant to Article 45a of the ZDoh‑2, the exemption from the tax base will not apply to income for which the tax base is determined pursuant to Article 42(1) and Article 42(2) of the ZDoh‑2 and to taxable persons that claim tax benefits pursuant to international treaties concluded or acceded to by Slovenia.

3.2.1 Research work of a researcher, and posting between related undertakings

The special tax base under the conditions referred to in Article 45a(1) of the ZDoh‑2 and in accordance with Article 45a(3) of the ZDoh‑2 will also apply to a **researcher** carrying out research programmes of a research organisation as a public service in area of research activity, carrying out research projects of a research organisation (co-)financed from the Slovenian central government budget or carrying out research programmes or projects within the scope of the international cooperation of Slovenia and (co-)financed from the Slovenian central government budget or European programmes or funds. The researcher and the research organisation are deemed to be a researcher and research organisation as defined by the law governing research and development activities.

These cases are not always classed as posting under which all elements of an employment relationship would still exist; this is because the condition of maintaining the employment relationship between the worker and their employer before the start of the posting abroad is not required, which means that the employment relationship can be interrupted during the period of posting to/from abroad and a new employment relationship can be established with the employer abroad/foreign employer.

Pursuant to Article 45a(4) of the ZDoh‑2, under the conditions of the first paragraph of that article the special tax treatment also applies to the income of workers who have been **posted abroad pursuant to an instrument of posting between related undertakings under the law governing companies**, except between undertakings mutually related by means of business agreements. For the purposes of this paragraph, the employer’s place of business is also deemed to be a related undertaking.

In cases of posting to or from abroad to a related undertaking as well, the condition of maintaining the employment relationship between the worker and their employer before the start of the posting abroad is not required, which means that the employment relationship can be interrupted during the period of posting to/from abroad and a new employment relationship can be established with the employer abroad/foreign employer. Similarly, the employer’s place of business is also deemed to be a related undertaking for the purposes of a more favourable tax treatment of the stated income, due to the restrictive conditions referred to in the second paragraph of that article, which are not a condition for claiming the tax benefits under that paragraph.

In those cases, the employment relationship between the worker and the employer is maintained, but there is no requirement to meet the conditions of the second paragraph of that article, which prevent posting to a place of business (e.g. that the work prior to the posting is habitually carried out in the country in which the employer is established and the work is carried out on the basis of a contract with the recipient of the service).

3.3 Period of posting for the transnational performance of work

Regarding the duration of the posting, the tax treatment of income connected with each temporary posting abroad is connected to the agreement on the duration of the posting abroad between the worker and the employer. For an individual temporary posting, the individual agreement (in principle, arranged in the employment contract, an addendum to the employment contract, etc.) between the worker and the employer on the period of the temporary performance of work abroad is deemed to be in accordance with labour law. For tax purposes in relation to an individual agreement, there is deemed to be no interruption to the obligation to perform work abroad if the posting abroad is extended by means of the supplementing of previous agreement or the conclusion of a new agreement.

For assessing the continuity of the posting, the physical presence of the worker at the place of posting is not relevant during non-working days or when the worker is not working. Therefore, as an example, private trips back home or somewhere else during the period of posting do not constitute an interruption to the posting, while possible reimbursements of expenses connected with such trips are, of course, not treated as reimbursements of expenses in connection with work, business trips or posting for tax purposes.

For the purposes of the tax treatment of the reimbursement of expenses, a change in the place of performance of work abroad (for example: a worker posted to Graz concludes an agreement with the employer and, after an interruption of the work in Graz, begins a posting to Milan) is not treated as an interruption of the posting, although in such a case the employer is required to obtain a new A1 form for that worker. For tax purposes, the mere conclusion of a new agreement or the acquisition of a new A1 form as a result of a change to the place of posting does not constitute an interruption to the posting.

When defining the period of posting, the agreement between the worker and employer on the duration of the posting is crucial. From the aspect of determining the interruption to the posting, that agreement must be considered in substantive rather than formal terms and must, in particular, take into account the actual state of facts and the economic aspects. In defining the period of posting, one of the criteria that can be taken into account to assess the continuity of the posting is also the period of posting stated in the A1 form. It should be emphasised here that this is not the only criterion for assessing the continuity of the posting; rather, each case must be considered individually by taking into account the provisions of the ZDoh‑2 and the circumstances of the individual case. In defining the period of posting in an individual case, due regard should be paid to the principle of material truth in tax matters, according to which the object of taxation, the circumstances and the facts essential for taxation are evaluated by their economic substance and the concept applicable under the ZDoh‑2, i.e. identification of the income or the tax treatment of individual income not directly connected to the legal and formal demonstration of a certain relationship or fact. Rather, the most important aspect is the legal and economic substance (principle of substance over form).

A number of conditions must be met, including, in addition to the way services are provided, the condition that the worker is temporarily working in another country or that the posted worker does not habitually carry out work in the country of posting (‘habitual performance of work’ in this text is used for cases where the worker has a permanent place of work abroad). If the worker’s work is habitually carried out abroad, it is not a temporary posting abroad and the tax treatment is not subject to the provisions of the ZDoh‑2 that apply to posted workers.

In the light of the above, in each specific case a substantive assessment must be made under labour law as to whether the work is a posting abroad or is the habitual performance of work with a Slovenian employer at a place of work in another country, and also a substantive assessment as to whether the criteria for a more favourable tax treatment of the particular income are met.

In the case of an agreement between the worker and the employer under which the worker works abroad and in Slovenia in a permanent rotation (example: the employment contract provides that the worker’s place of work is abroad for three days a week and in Slovenia for two days a week), the days on which work is carried out in Slovenia are classed as an interruption to the posting when the duration of the posting period is being assessed. If in the period of an individual month (week) the worker works several days abroad (and is classed as a posted worker) and several days in Slovenia, the condition of a continuous posting for more than 30 days is not met, meaning that the conditions for applying Article 45a of the ZDoh‑2 are also not met.

Pursuant to the Article 45a(1) of the ZDoh‑2, the duration of the posting to or from Slovenia must be for a continuous period of more than 30 days. That provision is unconditional and requires the continuous performance of work within or outside Slovenia. In other words, the place of performance of work, which is an essential element of an employment contract under Slovenian labour law, must be in Slovenia (in the case of a posting to Slovenia) **or outside Slovenia (in the case of a posting abroad)**. In the case of a posting abroad, the agreement to carry out work at home may affect the period of posting:

* working at home in Slovenia when posted abroad means interrupting the period of posting, as it does not satisfy the condition of continuity of work abroad;
* working at home in the country of posting does not interrupt the period of posting.

Subsequent amendments of the agreement between the worker and the employer regarding the duration of the posting change the nature of the entire posting in terms of its duration and, consequently, in terms of meeting the condition of the continuous nature of the transnational posting when the special tax base is being claimed. In such cases, the tax liabilities that may have already been charged are duly recalculated in line with the different duration of the posting period. Recalculations connected with the claiming of a special tax base are not compulsory because they are considered to be benefits that can be claimed if the condition of the continuous nature of the posting has subsequently been met.

4.0 INCOME TAX PREPAYMENT CALCULATION

Calculation of the income tax prepayment on income from employment is laid down in Article 127 of the Personal Income Tax Act ([ZDoh‑2](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4697)), and depends on whether an employee obtains the majority of their income at a specific employer (main/second employer). For more on this, see the [detailed description](https://www.fu.gov.si/davki_in_druge_dajatve/podrocja/dohodnina/dohodnina_dohodek_iz_zaposlitve/) Income from employment (Section 4).

4.1 International treaties on the avoidance of double taxation

The right to tax income from employment is usually regulated by Article 15 of the international treaties on the avoidance of double taxation of income and assets (hereinafter: international treaty/treaties) which Slovenia has concluded with other countries. Pursuant to Article 15(1) of the international treaty concluded between countries (e.g. between Slovenia and Germany), income from employment is taxed in the employee’s country of residence (e.g. Slovenia), unless the employment takes place in the other contracting state (Germany). This means that the right to tax income from employment can be:

* the exclusive right of the income recipient’s country of residence (Slovenia) when the employment does not actually take place in the other contracting state (Germany); or
* the right belongs to both contracting states, i.e. the source country (the country where the employment takes place, e.g. Germany) and the country of residence (Slovenia), whereby the source country (Germany) has the right of priority and the income recipient’s country of residence (Slovenia) must follow the appropriate steps to avoid double taxation.

More information on this is published in the detailed description Taxation of income from employment under international treaties on the [FURS](https://www.fu.gov.si/davki_in_druge_dajatve/podrocja/mednarodno_obdavcenje/#c4654) website.

4.2 Tax treatment of Slovenian residents posted abroad

If a Slovenian resident carries out work for a Slovenian undertaking in the territory of the other contracting state (e.g. Germany), the provisions of the specific international treaty that Slovenia has concluded with that other contracting state (e.g. Germany) is taken into account in relation to the right to tax income from employment paid by the Slovenian undertaking. The taxation of income from employment is regulated by Article 15 of the international treaty. Pursuant to the first paragraph of that article, income from employment is taxed solely in the employee’s country of residence (i.e. in Slovenia), unless the employment takes place in the other contracting state (e.g. Germany). If the employment takes place in the other contracting state (Germany), emoluments received can be taxed in that other country (Germany).

A resident’s income from employment is therefore, as a rule (primarily), taxed in the contracting state in which the employment actually takes place. Where in such cases the right to tax the same income is given to both contracting states (the source country and the country of residence), the income recipient’s country of residence takes the appropriate steps to avoid double taxation provided by the relevant international treaty.

The exemption is the rule under Article 15(2) of the international treaty, which provides that emoluments received by the resident of the contracting state (Slovenia) from employment that takes place in the other contracting state (Germany) are taxed only in the former country (Slovenia), if:

* the recipient resides in the other country for a period or periods not exceeding 183 days in any 12-month period starting or finishing in the accounting year;
* the emolument is paid on behalf of the employer who is not a resident of the other country; and
* the emolument is not paid by the permanent place of business or permanent base of the employer in the other country.

If all the above conditions of Article 15(2) of the treaty are met, tax is payable on the income from employment in the country of domicile or residence (Slovenia). If one of the conditions is not met, the income is taxed in the country in which the employment takes place (Germany) in accordance with Article 15(1) of the treaty, taking into account the national law of the contracting state (Germany).

If pursuant to Article 15(1) of the international treaty the other country (Germany) has the preemptive right to tax the income from employment of a Slovenian resident, Slovenia is obliged under Article 23(2) of the international treaty (the elimination of double taxation is usually regulated by Article 23 of the international treaties concluded by Slovenia, but may differ depending on the specific international treaty) to ensure the elimination of double taxation of the income that a resident of Slovenia earns by work (or employment) in the other country (Germany) by applying the so-called method of ordinary deduction (tax in Slovenia is reduced by the amount of tax paid in the source country, Germany, which is equal to the tax that Slovenia would itself levy on income earned in the other country, i.e. Germany).

The legal basis for the option of claiming a tax deduction for tax paid abroad or claiming an exemption under the international treaty on the avoidance of double taxation in the withholding tax return (REK form) was inserted into the Tax Procedure Act [(ZDavP‑2)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4703). Pursuant to Article 293 of the ZDavP‑2, where the income tax prepayment on the resident’s income from employment is calculated by the payer of tax, the latter may claim a tax deduction of tax paid abroad in the REK form or an exemption already when the withholding tax is being calculated, subject to the payer of tax possessing the relevant evidence regarding the tax liabilities of the resident outside Slovenia, particularly regarding the amount of the tax paid abroad and the basis for the payment of tax. Documents issued by the tax authority of the foreign country or other documents that clearly prove the existence of the tax liability or the payment of tax outside Slovenia are considered suitable evidence. The payer of tax reports the claim of a deduction of tax paid abroad accordingly in the REK forms when paying the income tax prepayment by showing the deduction of the tax paid abroad in Box A092 of the REK form.

It should also be noted that Article 293(2) of the ZDavP‑2 provides that, without prejudice to the first paragraph of that article, the taxable person’s tax deduction or exemption for the tax paid abroad is recognised when the annual income tax is being calculated and recalculated only if the taxable person claims the tax deduction of the tax paid abroad and the exemption in the objection to the provisional income tax statement or in the income tax return in accordance with Articles 273 and 274 of the ZDavP‑2.

4.3 Tax treatment of non-residents posted abroad

In principle, foreign workers posted abroad by a Slovenian undertaking remain residents of their home country for tax purposes. Therefore, regarding the right to tax income from employment paid by a Slovenian undertaking, the provisions of the specific international treaty concluded between the income recipient’s country of residence (foreign worker) and the source country of the income (the country from which the income is paid, i.e. Slovenia) is taken into account.[[1]](#footnote-1)

Under Article 15(1) of the international treaty concluded between the income recipient’s (foreign worker’s) country of residence, income from employment is taxed in the employee’s (foreign worker’s) country of residence, unless the employment takes place in the other contracting state (Slovenia). Since, in the case of postings abroad, residents of other contracting states carry out work for a Slovenian undertaking in the territory of another country (not in Slovenia), the income recipient’s (foreign worker’s) country of residence has the exclusive right to tax that income.

Non-resident income recipients who wish to benefit from an international treaty (i.e. exemption from making an income tax prepayment in Slovenia) must submit to the payer of tax (payer of the income) a completed [Request for exemption from the payment of tax on income from employment (except pensions) under the provisions of an international treaty on the avoidance of double taxation (KIDO 5)](https://edavki.durs.si/EdavkiPortal/OpenPortal/CommonPages/Opdynp/PageD.aspx?category=zmanjsanje_oprostitev_fo) before the income is paid. The payer of tax submits a completed request to the competent tax authority, but does not calculate or withhold the tax on the income paid until a verified request from the tax authority is received.

If the income tax referred to in the international treaty has already been charged despite the exemption, the income recipient may file a [Request for a refund of tax on other incomes under the provisions of an international treaty on the avoidance of double taxation (KIDO 12)](https://edavki.durs.si/EdavkiPortal/OpenPortal/CommonPages/Opdynp/PageD.aspx?category=vracilo_fo) with the tax authority. The tax is then refunded on the basis of that request. The integral part of the KIDO 5 or KIDO 12 form includes a confirmation that the income recipient is a resident of the other contracting state. The confirmation is issued by the competent authority of the income recipient’s (foreign worker’s) country of residence.

When calculating and paying the income tax prepayment on the income from employment of a **non-resident worker** posted abroad, an employer in possession of a tax authority decision (on the basis of a KIDO 5 form) does not calculate the income tax prepayment. Exemption from the calculation and payment of an income tax prepayment must be shown in the withholding tax return by indicating that a benefit under international treaties is being claimed and entering, in Box D11 in the individual section of the REK form, the reference number of the tax authority decision and the rate set by the decision, or the rate of 0 (zero) if the worker is exempt from the payment of an income tax prepayment, in the summary REK‑1 form and the analytical REK form (for payments made up to 31  December 2022) or in the analytical part of the REK‑O form (for payments from 1 January 2023 onwards).

5.0 BASIS FOR THE CALCULATION AND PAYMENT OF CONTRIBUTIONS

In Slovenia a liability to pay social security contributions (hereinafter: contributions) arises if a person has insured person status under the regulations governing social security systems; this liability also applies to persons who are insured on the basis of an employment relationship, on condition that they earn income or receive emoluments defined under these regulations as a basis for the payment of contributions. Pursuant to the regulations on social security contributions, the obligation to calculate and pay contributions for insured persons employed by an employer established in Slovenia is **linked to the actual income payment** and is imposed on the employer.

5.1. Basis for the calculation and payment of contributions – applicable until 31 December 2023

The basis for the payment of contributions for insured persons/workers in an employment relationship is set out in Article 144 of the Pension and Disability Insurance Act ([ZPIZ‑2](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6280)) and applies to other contributions as well. The status of the insured person with regard to compulsory insurance (insurance basis) must be taken into account when the basis is being determined. For the purposes of correctly determining the basis for charging contributions for workers posted abroad, it is necessary to distinguish between insured persons covered by insurance under insurance basis 001 (workers in an employment relationship in the territory of Slovenia) and insured persons covered by insurance under insurance basis 002 (workers in an employment relationship with an employer established in Slovenia who have been posted abroad and are not covered by compulsory insurance pursuant to the provisions of the country to which they have been posted).

Workers posted abroad who regularly or simultaneously carry out work both in Slovenia and abroad (for example, those dealt with under Article 13 of Regulation (EC) No 883/2004, which regulates simultaneous employment where work is carried out in two or more EU Member States) are also covered by compulsory insurance during the posting under insurance basis 001. When the basis for charging and paying contributions is being determined, Article 144(1) and Article 144(3) of the ZPIZ‑2 are to be taken into account.

Workers posted abroad, who, by way of exception, carry out work abroad for a period not exceeding 24 months and who have not been sent abroad to replace another posted worker will, for the purposes of the implementation of the ZPIZ‑2, be classed as posted workers under Article 14(3) of the ZPIZ‑2 (for example, those dealt with under Article 12 of Regulation (EC) No 883/2004) and be covered by insurance under insurance basis 002 for the duration of the posting, whereby Article 144(1), Article 144(2) and Article 144(3) will be taken into account when the basis for charging and paying contributions is being determined.

According to Article 144(2) of the [ZPIZ‑2](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6280), the basis for the payment of contributions for insured persons/posted workers in an employment relationship (insurance basis 002) from the paid salary is (and this also applies to other contributions) the salary that would have been received for the same work in Slovenia.

This means that the part of the salary that they receive exclusively as a result of the posting abroad does not count towards the basis for calculating the contributions of these workers. Identifying whether allowances received by the posted worker represent a part of the salary or other remuneration from employment depends on the definition of salary itself under the regulations on employment relationships. Under Article 126(2) of the Employment Relationships Act [(ZDR‑1)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5944), a salary consists of basic pay, performance-related pay and supplementary payments. Performance-related pay is also an integral part of a salary if it has been defined as such by the collective agreement binding on the employer or in the employment contract.

Without prejudice to Article 144(2) of the ZPIZ‑2, posted workers must pay social security contributions from all other remuneration from employment as well, regardless of the insurance basis (with due regard to Article 144(3) of the ZPIZ‑2), including incentives, bonuses and reimbursements of work-related expenses paid in cash, vouchers or in kind, from the amounts provided for in Article 144(3) of the ZDoh‑2.

5.2. Basis for the calculation and payment of contributions – applicable from 1  January 2024

The basis for paying the contributions for insured persons/workers in an employment relationship is set out in Article 144 of the Pension and Disability Insurance Act ([ZPIZ-2](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6280)) and applies to other contributions as well. The status of the insured person with regard to compulsory insurance (insurance basis) must be taken into account when the basis is being determined. Article 35 of the Transnational Provision of Services Act [(ZČmIS‑1)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8529) (UL RS, No [40/23](http://www.uradni-list.si/1/objava.jsp?sop=2023-01-1126)) provides for the termination of validity of Article 144(2) of the ZPIZ‑2, which also applies to salary payments for the period up to and including December 2023. This means that for salary payments for the period from January 2024 onwards, the total salary paid will count towards the basis for calculating and paying contributions, even for workers posted abroad (regardless of whether the posting is under Article 12 or Article 13 of Regulation (EC) No 883/2004 or whether the posting is to a third country). In other words, in the case of postings abroad the inclusion of a comparable wage for work in Slovenia in the basis for the calculation and payment of contributions has been abolished.

The same applies to civil servants and seafarers. Article 1(3) of the ZČmIS‑1 provides that the law does not apply to the transnational provision of services by seafarers in merchant navy undertakings, aircrew and cabin crew, civil servants and contracted workers. The amendment to the ZPIZ‑2 based on Article 35 of the ZČmIS‑1 does not in any way release civil servants who have been posted abroad from the requirement to comply with the legislation on pension and disability insurance. However, the amendment does not affect the rules for determining salaries.

The deletion of Article 144(2) of the ZPIZ‑2 essentially deleted the exception relating to the determination of a (lower) basis for the payment of contributions by employed persons covered by a social security insurance scheme in Slovenia during a posting abroad.

Under Article 35 of the ZČmIS‑1, the insurance basis for wages in the case of posted workers must, from January 2024 onwards, be determined in the manner already laid down in Article 144(1) of the ZPIZ‑2. Under this provision, the basis for calculating contributions is the salary or salary allowance and all other remuneration based on the employment relationship, including bonuses and the reimbursement of work-related expenses paid in cash, bonuses or in kind, whether in Slovenia or abroad.

6.0 REIMBURSEMENT OF WORK-RELATED EXPENSES

In the tax treatment of the reimbursement of work-related expenses, points 3 and 4 of Article 44(1) of the Personal Income Tax Act [(ZDoh‑2)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4697), which provide that the reimbursement of work-related expenses does not count towards the tax base of income from employment, are also taken into account for workers posted abroad, subject to the conditions and up to the amounts established by the government. The amount of those expenses and the conditions are laid down in the Decree on the tax treatment of reimbursements of expenses and other income from employment [(the Decree)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED4359).

An explanatory [note](https://www.fu.gov.si/davki_in_druge_dajatve/podrocja/dohodnina/dohodnina_dohodek_iz_zaposlitve/) regarding the tax treatment of the reimbursement of expenses is published on the FURS website. Detailed explanations applying exclusively to workers posted abroad are set out below.

The tax treatment of reimbursements of work-related expenses in an employment relationship is linked to the substantive definition of temporary postings abroad under labour law. The [ZDoh‑2](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4697) defines the types of reimbursements and the amounts and conditions under which they do not count towards the tax base. The amendment to Article 44 of the [ZDoh‑2](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4697) (pursuant to the ZDoh-2S, an amending act, UL RS, No 69/2017) provides that the reimbursement of work-related expenses relating to a posting abroad is to be treated in line with the duration of the posting, whereby the conditions regarding the inclusion of the reimbursement of meal and overnight accommodation expenses are not tied to insurance coverage or the basis for obtaining the A1 form but, rather, to the nature of the income.

The amendment to Article 44 of the ZDoh‑2, which applies to tax years from 1  January 2018 onwards, a distinction is made, for the purposes of the tax treatment of reimbursements of expenses of workers posted abroad, between short and long postings abroad. The period of posting is explained in more detail in Section 3.3 of this document.

6.1 Reimbursement of meal expenses in connection with a temporary posting abroad (effective from 1  January 2018 onwards)

Point 4(b) of Article 44(1) of the ZDoh‑2 treats shorter and longer postings abroad separately for the purposes of determining that part of the reimbursement of meal expenses during a temporary posting abroad that is not subject to taxation.

1. In the case of a posting that lasts for a continuous period **of up to a maximum of 30 days**, the reimbursement of meal expenses for each working day during the period of posting does not count towards the tax base up to the amount and subject to the conditions that apply to the reimbursement of meal expenses for business trips (**in the amount of the per diem**). For posted workers who carry out the occupation of driver in international road transport, a time limit of up to 90 days applies to a continuous posting. For posted workers who carry out the occupation of driver in international road transport, each posting is deemed to be the performance of the duties of the driver in international road transport within the scope of one absence from the employer’s place of establishment.
2. In the case of a posting that lasts for a continuous period **exceeding 30 days** (for drivers in international road transport, continuously for a period exceeding 90 days), the reimbursement of meal expenses does not count towards the tax base up to the amount and under the conditions determined for the reimbursement of meals expenses during work, increased by 80% of the amount determined by the government.[[2]](#footnote-2) According to the currently applicable amount of this reimbursement (since September 2022), the amount is 7.96 x 1.80 = EUR 14.33 (previously 6.12 x 1.80 = EUR 11.02).

In the case of a posting that lasts for a continuous period of up to a maximum of 30 days (90 days for posted workers who carry out the occupation of driver in international road transport), the reimbursement of meals expenses does not count towards the tax base up to the amount of the full per diem, namely for each working day of the worker regardless of the number of hours worked. A worker’s entirely non-working days are not counted as working days.

The tax treatment of incomes for each temporary posting abroad or each posting for the transnational performance of work is, with regard to the duration of the posting, connected to the agreement on the duration of the posting (duration of up to 30 or 90 days or more) between the worker and the employer. Private trips back home or somewhere else during the period of posting does not constitute an interruption to the posting, while possible reimbursements of expenses connected with such trips are, of course, not treated as reimbursements of expenses related to work, business trips or posting for tax purposes.

Subsequent amendments to an agreement between a worker and employer regarding the duration of the posting change the nature of the entire posting and, consequently, the amount and type of reimbursements of expenses that do not count towards the tax base. Reimbursements of expenses that have already been paid must therefore be appropriately treated for tax purposes and the tax liabilities charged must be adjusted having regard to the different duration period of the posting. For example, if the posting is extended from 25 to 40 days, reimbursements of meal expenses do not count towards the tax base of the income up to the amount and under the conditions established for the reimbursement of meal expenses during work, increased by 80% of the amount determined by the government for the entire period of posting and not only for the period of time exceeding 30 days.

A working day during a posting is considered to be every working day of the worker, whereby a working day is considered to be every day in which a worker carries out any obligations related to their employment, regardless of the number of hours worked. The worker’s holidays are not included at all in the working days, which means that the days when the worker travels to the place abroad where the work is carried out are included in the working days of the posting if, in substance, they are not deemed to be travelling to and from work.

6.2 Reimbursement of travel expenses

For the reimbursement of expenses for travelling to and from work, it should be noted that the provisions of Article 3(1) and Article 3(3) of the [Decree](http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED4359) provide that the reimbursement of expenses for travelling to and from work does not count towards the tax base of the income from employment up to the amount prescribed by the Decree (costs of public transport up to August 2021, the reimbursement of costs in the form of mileage since September 2021) from the habitual residence to the place of work, whereby the worker’s habitual residence is the place of residence closest to the place of work and the worker’s other place of residence is the habitual place of residence under this Decree only if the worker travels from there to the place of work four times a week.

This means that where workers posted abroad travel to work daily from a temporary place of residence to the place of work, that place of residence is deemed to be their habitual residence and, for the purposes of tax, only the expenses of travelling to and from work between the habitual residence (during the week this is the place of residence abroad) and place of work are recognised, regardless of the fact that those workers usually reside in Slovenia during the weekends, public holidays, private holidays, etc. In view of this, travel from the habitual place of residence (place of residence abroad) to home is not subject to the reimbursement of expenses for travelling to and from work.

For incomes paid from 1  January 2018, pursuant to the amended Article 44 of the ZDoh‑2, reimbursements of expenses for **travel to the place of posting at the start of the posting and the return at the end of the posting** does not count towards the tax base up to the amount and under the conditions determined in accordance with point 4 of Article 44(1) of the ZDoh‑2 for the reimbursement of expenses connected with business travel.

A detailed explanation regarding the reimbursement of expenses for travelling to and from work is published on the FURS website: [Reimbursements\_of\_costs\_and\_other\_income\_from\_the\_employment\_relationship.docx (live.com)](https://www.fu.gov.si/fileadmin/Internet/Davki_in_druge_dajatve/Podrocja/Dohodnina/Dohodek_iz_zaposlitve/Opis/Povracila_stroskov_in_drugi_dohodki_iz_delovnega_razmerja.docx).

6.3 Reimbursement of overnight accommodation expenses connected with a temporary posting abroad

Pursuant to point 4(b) of Article 44(1) of the ZDoh‑2, the reimbursement of expenses for overnight accommodation during a temporary posting that lasts for a continuous period of up to a maximum of 90 days does not count towards the tax base of the income from employment up to the amount and under the conditions determined in accordance with point 4 of Article 44(1) of the ZDoh‑2 for the reimbursement of overnight accommodation expenses connected with a business trip. In that regard, point 3 of Article 44(1) of the ZDoh‑2 as it relates to the reimbursement of overnight accommodation expenses is not applied.

If accommodation is provided in a temporary posting that lasts for a continuous period of more than 90 days, the bonus for the entire period of the posting (and not only for the period exceeding 90 days) must be calculated.

Subsequent amendments to an agreement between a worker and employer regarding the duration of the posting change the nature of the entire posting and, consequently, the amount and type of reimbursements of expenses that do not count towards the tax base. Reimbursements of expenses that have already been paid must therefore be appropriately treated for tax purposes and the tax liabilities charged must be adjusted having regard to the different duration period of the posting. For example, if a posting is extended from 80 to 95 days, the reimbursements of overnight accommodation expenses is treated as a bonus for the entire period of posting and not only for the period exceeding 90 days.

6.4 Reimbursement of expenses connected with a business trip

In practice, the question often arises of when a worker is considered to have been posted abroad and when they are considered to be on a business trip abroad. As explained in Section 1.0 of this document, the [Information](http://www.mddsz.gov.si/si/delovna_podrocja/trg_dela_in_zaposlovanje/delovne_migracije/) on the use of the institution of posting abroad or a business trip, issued by the Ministry of Labour, Family, Social Affairs and Equal Opportunities, should be consulted to help distinguish between a posting and a business trip.

In the case of a business trip, paid reimbursements of expenses, namely per diems as reimbursements of meal expenses, overnight accommodation expenses, travel expenses and other expenses incurred in the course of the performance of official tasks on a business trip, supported by invoices, are treated for tax purposes in accordance with Article 44(1) of the [ZDoh-2](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4697) and in accordance with the Decree on the tax treatment of expenses and other income from an employment relationship [(the Decree)](http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED4359) (Articles 4, 5 and 6).

In terms of recognising the reimbursement of expenses for a business trip among the income that does not count towards the tax base of the income from employment, it is important to maintain appropriate records to be able to credibly demonstrate the actual expenses incurred. Under the provisions of the Slovenian Accounting Standards (SRS 2006), expenses connected with a business trip are classed as service costs and are recognised on the basis of documents proving that they are related to the resulting economic benefits. A business trip is deemed to be a business event that the worker can carry out solely on the basis of a previously issued travel order, the issuing of which is decided by management. An issued travel order is the basis for issuing the accounting document through which the business trip expenses incurred can be recognised.

The reimbursement of expenses for a business trip can be paid untaxed to the worker if the worker has been sent abroad on a business trip on the basis of a travel order issued by the employer, which means that the trip starts at the place where the work is carried out abroad, i.e. the place to which the worker has been posted abroad (e.g. the place of posting is Vienna and, during the posting, the worker is sent on a business trip to Graz).

6.5 Separation allowance and field allowance

According to Article 8 of the [Decree](http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED4359), the separation allowance paid to an employee who works outside the place where they live with their family and who, for reasons of professional necessity, lives apart from their family during the period in which they perform their professional commitments, is not counted towards the tax base in the amount of EUR 434 **per month** (for periods from 1  January 2023, previously EUR 334 per month).

According to the provisions of individual collective agreements binding on the employer, the posted worker also has the right to a **field allowance**. The reimbursement of expenses for fieldwork does not count towards the tax base pursuant to Article 7 of the Decree if it has been paid to an employee who stays overnight for at least two consecutive days outside their place of habitual residence and outside the employer’s place of establishment, up to the amount of EUR 5.84 per day (for periods from 1  January 2023, previously EUR 4.49 per day) if the employer provides meals and overnight accommodation. If the employer does not provide meals and overnight accommodation, the reimbursement of expenses does not count towards the tax base in the amount laid down by the [Decree](http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED4359) for per diems and overnight accommodation on a business trip.

Pursuant to Article 7(5) of the Decree, if an employee has been paid a separation allowance, the field allowance, i.e. the reimbursement of expenses for fieldwork, counts towards the tax base, unless the employee was sent to the field from the place of work to which they were assigned or posted for reasons of professional necessity.

If point 4(b) of Article 44(1) of the ZDoh‑2 is applied, point 3 of Article 44(1) of the ZDoh‑2 (separation allowance, field allowance) is not applied. Under that provision, in a posting abroad that lasts for a continuous period of up to a maximum of 90 days, reimbursements of overnight accommodation expenses are treated as reimbursements of overnight accommodation expenses on a business trip. However, the employee may not simultaneously also receive untaxed separation or field allowances.

This means that if overnight accommodation is provided or overnight accommodation expenses reimbursed, the separation allowance cannot be paid without tax being levied on it. The separation allowance is determined as a lump sum amount and constitutes an allowance for all increased expenses incurred by a worker who does not live with their family for reasons of professional necessity, including the maintenance of two places of accommodation for themselves and their family.

The exclusion of reimbursement of overnight accommodation expenses under point 4(b) of Article 44(1) of the ZDoh‑2 by reason of the payment of a fieldwork allowance relates to overnight accommodation expenses in the case of fieldwork. If the conditions for fieldwork under Article 7 of the Decree are met and the employer provides the worker with overnight accommodation, a worker who is posted abroad for up to 90 days may not also receive a reimbursement of overnight accommodation expenses. If in the case of fieldwork the employer does not provide the worker with overnight accommodation, the reimbursement of overnight accommodation expenses cannot be paid untaxed to the worker twice, i.e. pursuant to Article 7 of the Decree and pursuant to point 4(b) of Article 44(1) of the ZDoh‑2.

7.0 PAYMENTS TO AND FROM THE BUAK FUND

The BUAK Fund (in German: Bauarbeiter-Urlaubs- und Abfertigungskasse) performs the tasks laid down in the Austrian law governing leave and severance payments to construction workers and the law governing bad weather allowances for construction workers. BUAK’s tasks also include the payment of holiday pay, severance pay, winter holiday allowances and bad weather allowances for workers in the construction sector. As part of these tasks, BUAK collects contributions from employers, manages and invests the funds collected, and decides on workers’ claims.

Under Austrian law, Slovenian employers are obliged to pay benefits for posted construction workers into a special BUAK fund. These benefits are intended for the payment of leave allowances to construction workers. The contributions paid by Slovenian employers for posted construction workers to the Austrian BUAK fund (as well as to the German SOKA-BAU fund) are the fees that employers have to pay for construction workers under Austrian and German legislation during the period of performance of work.

In accordance with the accounting standards and the provisions of the Corporate Income Tax Act determining the tax base, these fees are labour costs which may also be tax-deductible expenses in the amount charged. Labour costs also include amounts paid to employees that are not directly connected with the business, as well as the additional charges levied on these amounts and charged to the payer. This means that payments into these funds reduce the Slovenian employer’s tax base.

7.1 Disbursements from the BUAK fund

When the conditions for receiving a holiday allowance are met, BUAK pays the allowance directly to the worker. When the payment is made, the employee and the employer are informed in writing of the amount of the allowance (income), the days of leave for which the payment has been made, the employer and employee social security contributions, and the taxes to be paid.

The BUAK fund pays two types of income to Slovenian posted workers:

1. a salary allowance for annual leave (Urlaubsentgeld), made up of two equal parts:

* + - the current payment (Urlaubsgeld); and
		- part of the extraordinary payment/annual leave allowance (Urlaubszuschuss).

2. An allowance for unused leave (Urlaubsabfindung), payable within six months of the end of the posting, consisting of two equal parts:

* + - the current payment (Urlaubsgeld); and
		- part of the extraordinary payment/annual leave allowance (Urlaubszuschuss).

The BUAK fund is deemed to be the entity liable for the payment of social security contributions (hereinafter: contributions) and, in paying the stated income, calculates and pays the contributions payable by the employee and the employer, taking into account the legislation governing the social security systems of the employer’s country (i.e. Slovenia).

Persons who are liable for contributions but are not payers of tax have, for payments up to 31  December 2022, calculated the contributions using the Calculation of the contributions of employers other than payers of tax, which, as Annex 7, forms an integral part of the [Rules](http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV13118) on the forms for calculating social security contributions. The form, completed in accordance with the instructions which, as Annex 8, forms an integral part of the Rules, was submitted by taxable persons to the tax authority no later than by the 15th day of the month for the previous month via the eDavki system.

For payments from 1  January 2023 onwards, the BUAK fund files, upon payment of the income in accordance with the [Rules](http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV14693) on the content and form of withholding tax returns, an REK‑O form on which contributions are calculated. The BUAK fund reports the payment of the annual leave allowance (Urlaubszuschuss, income type code 5553) and the current payment (Urlaubsgeld, income type code 5550) separately on the REK‑O form.

Because contributions are paid directly by the BUAK fund, the employer is not required to calculate and pay the contributions from income paid to posted workers by the fund. Since the salary allowance for annual leave is paid by BUAK, the employer does not report this income on the REK form. For example, if the BUAK fund pays a worker a salary allowance for 14 days of leave and the employer pays a salary for the days of attendance at work, the employer must submit a REK‑O indicating income type 1001 only for that part of the income actually paid. Box M01 shows the period and hours for the whole month of March to enable the ZPIZ to correctly take into account the information for formulation of the pension base.

Article 5 of the ZDoh‑2 provides that a resident of Slovenia is liable for income tax on all income originating in Slovenia and all income originating outside Slovenia. For income received from abroad, residents of Slovenia are already obliged to file returns to the tax authority during the year; therefore, for income received from the BUAK fund, workers must file the [eDavki – Tax return for assessing the income tax prepayment on income from employment for residents (durs.si)](https://edavki.durs.si/EdavkiPortal/OpenPortal/CommonPages/Opdynp/PageD.aspx?category=napoved_odmera_akontacije_dohodnine_delovno_razmerje_in_pokojnine_rezidenti_preb) form. They must file the return with the tax authority by the 10th day of the month for the previous month (Article 288(1) of the ZDavP‑2), entering the type of income under item 4 of the return for payments received: 1103 annual leave allowance (Urlaubszuschuss) or 1101 salary and salary allowances (Urlaubsgeld).

8.0 FILING OF REK FORMS

The obligation to submit data on income paid to the tax authority is provided for in Article 57(1), Article 57(4) and Article 353(2) of the Tax Procedure Act ([ZDavP‑2](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4703)). For more details, see the document on the FURS website: [Calculation\_of\_withholding\_tax\_REK‑O\_form\_and\_procedure\_of\_submission\_via\_eDavki.docx (live.com)](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.fu.gov.si%2Ffileadmin%2FInternet%2FDavki_in_druge_dajatve%2FPodrocja%2FDohodnina%2FREK_obrazci%2FOpis%2FObracun_davcnega_odtegljaja_REK-O_obrazec_in_postopek_oddaje_prek_eDavkov.docx&wdOrigin=BROWSELINK).

In the REK‑1 or REK‑O form (for payments from 1  January 2023), the payer of the income calculates the withholding tax and charges the social security contributions according to the rates applicable on the date of payment of the income. For payments from 1  January 2023 onwards, payments of salaries and salary allowances to workers posted abroad are reported on the REK‑O form under income type 1001. Separate reporting under income type 1091 has been abolished. When paying the other types of income from employment received by workers posted abroad, the types of incomes used in the REK‑1 form are the same as those that apply to workers who are not posted abroad.

In the case of a posting abroad, there is no separate reporting of wages paid on the REK‑O form, except in the case of a posting of a non-resident, for which an income tax prepayment does not need to be charged pursuant to a decision of the tax authority when the worker is not posted abroad for a full month. In such cases, separate reporting is necessary on account of the in-built controls in the eDavki system. When Box D11 (rate and decision of the tax authority regarding the claiming of benefits under international treaties on the avoidance of double taxation) is completed, the income tax prepayment is automatically calculated on the full amount of the income. As benefits under international treaties are not taken into account in income earned for work in Slovenia, two REK‑O forms must be prepared (in both cases using income type 1001 Salary and salary allowances).

Reimbursements of expenses and other income from employment that do not count towards the income tax base are also reported on the REK‑O form. The employer reports this income together with the taxable income. If income that does not count towards the tax base is paid independently, the income is reported once a month, jointly for all income that does not count towards the tax base and no later than by the last day of the month following the month in which the income was paid (income type code 1190).

In accordance with the [Rules](http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV14693) on the content and form of withholding tax returns in the case of income payments to an employee posted abroad, the following boxes are ticked and completed on the REK‑O form:

The employer ticks **Box A011 (Worker posted abroad)** if Article 144(2) of the ZPIZ‑2 (basis for contributions in the amount of the salary for the same work in Slovenia) applies to the income recipient for the purpose of determining the basis for the calculation of contributions, i.e. when the worker posted abroad is covered by insurance under insurance basis 002. Box A011 will be abolished for salary payments for the period from January 2024 (pursuant to the ZČmIS‑1, Article 144(2) of the ZPIZ-2 will not be applied from 1 January 2024 (see detailed Section 5.2 of this document)) and ticking of the box will no longer be possible.

In cases where the special tax base under Article 45a of the ZDoh‑2 may be applied to the worker, the employer must tick Box **A011a (Worker posted abroad for whom Article 45a of the ZDoh-2 is applied)**, enter the date of the first posting in Box A011b, and enter the sequential number of the month for which the special tax base is being claimed in Box A011c. In cases where there are several payments of salary and compensations for salary in an individual month, regardless of the period to which they apply, the month when it is claimed is taken into account as a period of one month.

For periods from 1  January 2018, reimbursements of the expenses of workers posted abroad are reported separately. The boxes to be completed when reimbursements of expenses are paid to workers posted abroad are described below.

**B05a Reimbursement of expenses for travel at the beginning and end of a posting** Enter the amount of the reimbursement of expenses for travel to the place of posting at the beginning of the posting and for travel from the place of posting at the end of the posting, up to the amounts and under the conditions applying to the reimbursement of travel expenses on a business trip.

**B06c Reimbursement of meal expenses – posting abroad up to 30 or 90 days** Enter the amount of the reimbursement of meal expenses in connection with a temporary posting abroad paid up to the amount that, in accordance with point 4(b) of Article 44(1) of the ZDoh‑2, does not count towards the tax base of the income from employment (for postings up to 30 days or for drivers in international road transport up to 90 days, the amount of reimbursement for meal expenses is determined by government decree, for business trips).

**B06č Reimbursement of meal expenses – posting abroad for more than 30 or 90 days** Enter the amount of the reimbursement of meal expenses in connection with a temporary posting abroad paid up to the amount that, in accordance with point 4(b) of Article 44(1) of the ZDoh‑2, does not count towards the tax base of the income from employment (for postings for more than 30 days or for drivers in international road transport for more than 90 days, the amount of reimbursement for meal expenses determined by government decree is increased by 80%).

**B06d Reimbursement of travel expenses in connection with a posting abroad** Enter the amount of the reimbursement of travel expenses during the posting up to the amount and under the conditions applicable to the reimbursement of travel expenses, which, in accordance with point 3 of Article 44(1) of the ZDoh‑2, do not count towards the tax base of income from employment.

**B06e Reimbursement of overnight accommodation expenses in connection with a posting abroad** Enter the amount of the reimbursement of overnight accommodation expenses in connection with a temporary posting of up to 90 days, which, in accordance with point 4(b) of Article 44(1) of the ZDoh-2, does not count towards the tax base of income from employment up to the amount and under the conditions applicable for the reimbursement of overnight accommodation expenses on a business trip.

The amount of the salary and the salary allowances that does not count towards the tax base of the income from employment pursuant to Article 45a(1) of the ZDoh‑2, is entered in Box **B20 Exemption from the tax base under Article 45a of the ZDoh‑2**.

A detailed description of the filing of REK forms is published on the [FURS](https://www.fu.gov.si/davki_in_druge_dajatve/podrocja/dohodnina/rek_obrazci/#c4632) website.

1. The list and the content of the international treaties concluded by Slovenia with other contracting states can be found at: [https://www.fu.gov.si/davki\_in\_druge\_dajatve/podrocja/mednarodno\_obdavcenje/#c78](#c78). [↑](#footnote-ref-1)
2. [Decree](http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED4359) on the tax treatment of reimbursements of expenses and other income from employment. [↑](#footnote-ref-2)