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## Maternity allowances – a complex issue with many involved parties

Dear Sir or Madam,

As the last European country, Switzerland introduced a public maternity insurance in 2005. Whilst many employers had already offered maternity allowances via a private insurance, a general entitlement for all female employees was then introduced via a public solution. Unfortunately this change has significantly increases bureaucracy.

Even after more than 10 years of public maternity insurance, we have noticed that many affected employers have shown signs of insecurity in implementing and processing insured events. These are rather complex because, next to public maternity insurance, very often the employer's sick pay obligations and the benefits of additional insurances must be considered as well.

Therefore, we would like to give you an overview of the regulations regarding maternity and maternity allowances below:

### **Before birth**

Swiss employment law stipulates that a woman is fully able to work until the day before confinement – absences from work before that are considered sick leave. The authors are aware of only one woman who worked full-time until the day before confinement – however, this is anything but common. Often work is possible up to three to six weeks before the presumed date of birth, after that it is no longer practical.

First of all, the employer's obligation to continue salary payments in the event of illness comes into effect. Many employers have also taken out an additional sick pay insurance which usually takes the place of continued payment of wages after a grace period of 30 days and pays out a daily allowance amounting to 80% of salary. The employer can either pass on just this or voluntarily supplement this up to 100% of salary. In this situation, the work loss is already carried out by two further involved parties (employer and private sick pay insurance).

### **Birth – a military action?**

From the day of birth, the coverage of the public maternity insurance begins, and then pays out 80% of the last salary for exactly 98 days or 14 weeks, with certain upper limits. Maternity compensation is processed via Loss of Earnings Compensation (EO) which also covers salary replacement for days served for military service or civil

defence, and to a large extent follows the same regulations. The legislator, so to speak, has put confinement on the same level as military service – at least as far as payments are concerned.

As with EO, an application for it must be sent to the employer's social security compensation office, and either a copy of the birth certificate or family records book is required as verification. At the same time, after it has been determined which parent is entitled to receive the child allowance, the child benefits application should be filed as well.

Whilst a certain flexibility existed regarding start and end of services rendered with earlier private insurance solutions, and somewhat creative models favouring the female employee had been possible, now with the public insurance this follows rigid lines. It is mandatory that payment of the allowance begins on the day of confinement, and should the female employee be taking up her employment again before 14 weeks have expired (even as a stand-in or temporarily), the maternity allowance will then cease immediately on the first day of work.

### **Supplements by generous employers**

For the duration of public maternity allowance, the employer has the option of either passing on the daily allowances or to voluntarily supplement this allowance up to 100% of the salary. The employer can either pay out this supplement at his or her own expense (along the lines of the continuation of salary payment) or make up the difference by taking up so-called birth benefit coverage via his or her sick pay insurance. In this instance the insurance would pay the difference.

Very generous employers will also extend the duration of drawing such maternity benefits, for instance by covering an additional fortnight of birth benefits via their sick pay insurance. We have seen this especially when an insurance for private birth benefits over 16 weeks had been taken up before the introduction of public maternity compensation, and when an employer did not wish to adjust benefits downwards.

### **Individual extensions**

After payments of public maternity allowances and possible private supplements by the employer have come to an end, the employee is generally expected to return to work. However, very often there is a desire to extend time off work on an individual basis.

First there is the option of drawing of accumulated holidays. Not only can holiday entitlements go back to the period before the baby break, but additional holiday entitlements will also be accumulated during the period of maternity compensation: while it is possible to reduce holiday entitlement pro rata during a long-term illness after the first month, this is explicitly not permitted during the drawing of public maternity allowances. With a holiday entitlement of four weeks and full-time work, a little more than an additional week of holiday is generated during the period of public compensation. Additionally, any existing overtime can also be used up.

Any extension of the baby break beyond this will, provided the employer has agreed, generally be considered unpaid leave. De facto, this corresponds to a voluntary resignation with re-entry at a later stage, and it is absolutely necessary to clarify how the insurance coverage of the female employee – generally at her own expense – can be maintained during this extended break. In this situation, a negotiated accident insurance may be suitable, for example. Certain pension funds also offer the option of either continuing the risk option only, or the provisions in their entirety.

As individual solutions are required in these instances, any questions arising from a desire to have such an extended break should be dealt with as early as possible.

Female employees who live abroad are, under certain circumstances, entitled to further public allowance by their home country; in Germany, for example, this is called parental leave. These benefits need to be organised privately, as they do not affect the Swiss employer who can only supply confirmations that might be necessary for any application by the employee. In Switzerland such periods are regarded as unpaid leave, and what has been written above applies.

### **Complication - Social Deductions**

We now have three different sources which serve for drawing allowances to cover the baby break, and with regard to social security these will all be treated differently:

Continuation of payment of salary by the employer is, just like any normal salary, subject to all social security insurances, i.e. subject to both social security (AHV), accident insurance and sick pay. However, sick pay and possible birth benefits are not subject to AHV or accident/sick pay, and thus no salary deductions need to be made. Public maternity compensation is also not subject to accident/sick pay; however, it is fully subject to AHV, and the relevant AHV deductions must be made and remitted. The employer, on the other hand, gets the employer's AHV contributions reimbursed with the received maternity compensation. These three benefits are all part of taxable salary, and must be declared accordingly on the salary certificate; and, wherever applicable, tax at source must also be paid.

As certain salary deductions are not made on maternity allowances and sick pay benefits this can (if the employer voluntarily supplements these allowances to up to 100% of the salary) lead to the net salary paid out being higher than what the female employee would have received when working full-time. If so desired, this can be corrected via net salary adjustment.

### **A comprehensive example**

The complexity of maternity benefits is best shown with an example:

On 7 June Ms Doe gave birth to a daughter. Her last day at work had been 28 April; as of 29 April she was on sick leave. Her employer had taken up a sick pay that pays 80% of the salary after a grace period of 30 days; additionally a 15th and 16th week of birth benefit amounting to 80% of the salary is covered by this insurance. On top of that her employer is extremely generous and supplements the salary paid out to 100% during the entire period of her inability to work. The result are the following benefits:

<b>Period</b>	<b>Days</b>	<b>Benefit</b>
29/04 - 28/05	30	100% continuation of salary payment
29/05 - 06/06	9	80% sick pay allowance + 20% salary payment
07/06 - 12/09	98	80% maternity compensation + 20% salary payment
13/09 - 26/09	14	80% sick pay birth benefits + 20% salary payment
27/09 - 03/10	5	100% salary (using accrued holidays)

For payroll administration, it is helpful in practice to take an annual calendar as soon as the birth has been announced, and count down the number of days and mark accordingly who has to provide which allowances during which periods. Based on this, all the required applications can be made, and the relevant data can be entered into the payroll system.

### **Conclusion**

Regulations in Switzerland regarding maternity compensation turn out far more complex than at first sight. At the latest this will be noticed once one of your female employees is about to give birth to a child and you have to process such an event in your payroll system. In particular, the number of the involved parties, with each having their own regulations to calculate the allowance they have to pay, and the differing regulations regarding salary deductions are challenging. artax has the necessary experience in this field and would look forward to supporting your payroll administration.

Kind regards

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