

Social Security contributions in 2017

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The absence of a Spanish Government Budget for 2017 has made it necessary to approve the rules on Social Security (national insurance) contributions under Royal Decree Act 3/2016, of 2 December, adopting measures in the field of taxation aimed at consolidating public finance and other urgent social security measures¹. In view of this, the amounts of the upper limit of the Social Security contribution base in those schemes or classes that have such an upper limit provided and of the upper contribution bases applicable in each of those schemes have been increased, from 1 January 2017, by 3% compared to those in force in 2016. Future increases will be determined by the recommendations made by the Parliamentary Standing Committee for the Evaluation and Monitoring of the Toledo Pact Accords and agreements in the framework of social dialogue².

1. Order ESS/106/2017, of 9 February (Official Journal of Spain of 11 February), implements the legislative rules on Social Security contributions, unemployment, protection against cessation of business, the Insolvency Payments Service (abbrev. FOGASA) and vocational training for 2017.

During 2017, contributions for general contingencies (*contingencias comunes*) under the General Scheme (*Régimen General*) will be limited in each of the 11 categories included in the relevant table by the lower and upper bases provided in the Order. And so, category 1 will have a lower base of €1,152.90 per month and an upper base of €3,751.20 euros per month. For its part, category 11 will have a lower base of €27.52 per day and an upper base of €125.04 per day. The most common base is the one provided for categories 4 to 7 with a lower base of €825.60 per month and an upper base of €3,751.20 per month. Recall that the national minimum wage for 2017, and after an increase of 8% compared to the previous year, has been set at €23.59 per day or €707.70 per month, depending on whether the salary is fixed according to days

¹ Real Decreto-ley 3/2016, de 2 de diciembre, por el que se adoptan medidas en el ámbito tributario dirigidas a la consolidación de las finanzas públicas y otras medidas urgentes en materia social.

² Comisión Parlamentaria Permanente de Evaluación y Seguimiento de los Acuerdos del Pacto de Toledo y los acuerdos en el marco del diálogo social.

or months, pursuant to the provisions of Royal Decree 742/2016 of 30 December (BOE of 31 December).

In order to determine each month's contribution for general contingencies under the General Scheme, the following rules will apply: (a) the remuneration accrued in the month to which the contribution refers will be taken into account; (b) the proportional part of the established thirteenth and fourteenth month pay (*gratificaciones extraordinarias*) and of other remuneration items that have an accrual period greater than a monthly one or that are not of a periodic nature and are satisfied within the financial year of 2017 will be added; and (c) if the contribution base resulting from the above rules does not fall between the lower and upper amounts relevant to the employee's category, such employee will contribute according to the lower or upper base, depending on whether the resulting base is comparatively lower or higher.

28.30% is kept as contribution rate for general contingencies, of which 23.60% will be borne by the employer and 4.70% by the employee. And for occupational contingencies (*contingencias de accidentes de trabajo y enfermedades profesionales*, occupational accidents and diseases), the premium rates laid down in the fourth additional provision of the Spanish Government Budget for 2007 Act 42/2006 of 28 December (BOE of 29 December) will be applied and borne, exclusively, by the employer.

Remuneration earned by employees by reason of overtime is subject to an additional contribution, which will not be taken into account when determining the calculation basis (*base reguladora*) for the purpose of benefits. In the case of overtime caused by force majeure, the rate of 14% will be applied, of which 12% will be borne by the employer and 2% by the employee. Otherwise, the standard rate of 28.30% is applied, of which 23.60% will be borne by the employer and 4.70% by the employee.

2. Some situations require special consideration, including the following:

- (a) *Temporary disability, risk during pregnancy, risk during breastfeeding and maternity or paternity leave*

Although all these cases involve a suspension from employment, the obligation to contribute is maintained. In such situations, the contribution base applicable for the purpose of general contingencies will be the one appropriate to the month prior to the date of the triggering event.

With a number of nuances. Thus, for example, where the employee is paid on a monthly basis and has remained fit for work during the whole calendar month prior to the initiation of one of the aforementioned situations, the contribution base in that month will be divided by thirty. If the employee has not been fit for work during the entire previous calendar month, the amount of the contribution base for that month will be divided by the number of days to which the contribution refers. In both cases, the resulting quotient will be the daily contribution base, which will be multiplied by thirty if the employee should remain the whole month in this situation of suspension or by the difference between that number

and the number of days the employee actually worked in that month. All this will be applicable when calculating the contribution base for the purpose of occupational contingencies during these situations. The contribution rate will continue to be that appropriate to the relevant business activity or occupation. However, in order to determine the contribution that should be made by reason of overtime, the average of overtime actually worked and subject to contribution during the year immediately prior to the date of initiation of such situations will be taken into account. To that end, the number of hours worked will be divided by twelve or three hundred and sixty-five, depending on whether or not the employee's remuneration is paid on a monthly basis.

(b) *Multiple employment*

For general contingencies: (a) the upper contribution bases, set at €3,751.20 per month, will be distributed among all employers in proportion to the remuneration paid to the employee by each employer; (b) each of the employers will contribute for the countable remuneration items paid to the employee, with the limit appropriate to the fraction of the upper limit assigned; and (c) the lower base appropriate to the employee, according to the employee's staff category, will be distributed among the different employers and will be applied by each one in a manner similar to that provided for the upper limit. If different lower contribution bases are appropriate to the employee according to his/her staff category, the highest lower base in amount will be taken for distribution.

For occupational contingencies: (a) the upper contribution base, set at €3,751.20 per month, will be distributed among all employers in proportion to the remuneration paid to the employee by each employer; (b) the lower contribution base will be distributed among the different employers and will be applied by each one in a manner similar to that provided for the upper limit; and (c) the contribution base for each employer will be that which is in accordance with what is laid down in this Order with the limits that have been assigned according to the previous rules. If one of the employments entails inclusion in the General Scheme, the distribution of the upper limit for general contingencies will only be made in order to determine the contributions for the purpose of general contingencies protected by both schemes of inclusion, as well as the other items of joint collection.

(c) *Special Scheme for Self-Employed Workers*

As of 1 January 2017, the lower contribution base will be €893.10 euros per month and the upper €3,751.20 per month.

As above, there are also different categories: (a) for workers under forty-seven years of age, the base will be chosen by them, within the limits represented by the lower and upper bases; (b) for workers forty-seven years of age, if their contribution base is less than €1,964.70 s per month, they cannot choose a base higher than €1,964.70 per month, unless they exercise their option in this regard before 30 June 2017, which will take effect on or after 1 July of the same year, or they are the surviving spouse of the business owner and, as a result of such decease, had to take charge of such business and register for this

special or specific scheme at the age of forty-seven, in which case such limitation would not apply, and (c) for self-employed workers aged forty-eight or more, the contribution base will be between the amounts of €963.30 and €1,964.70 per month, except in the case of and, as a result of such decease, had to take charge of such business and register for this special scheme at the age of forty-five or more years of age, in which case the choice of bases will be between the amounts of €893.10 and €1,964.70 per month.

With respect to self-employed workers who at some point in 2016 and simultaneously have hired a number of employees equal to or greater than ten, the lower contribution base will be of an amount equal to that estimated as the lower base for the workers included in the contribution category 1 of the General Scheme which, for 2017, is set at €1,152.90 per month.

The contribution rate for general contingencies will be 29.80%. If the interested party is protected for the purposes of occupational contingencies or cessation of business, it will be 29.30%. When the self-employed worker does not have temporary disability protection under this scheme, the contribution rate will be 26.50%. The workers included in this special scheme that do not have protection for the purposes of occupational contingencies will make an additional contribution equal to 0.10%, applied on the chosen contribution base, for the financing of the benefits.

For the purposes of occupational contingencies, the premium rates laid down in the fourth additional provision of Act 42/2006 of 28 December will be applied to the same contribution base chosen by the interested parties for general contingencies.

(d) *Special pay-in scheme*

Article 22 of the Order includes the coefficients set out in the special pay-in scheme (*convenio especial*) for the different situations provided for in its regulation. Among others, 0.94 when the special pay-in scheme is intended to cover all general contingencies except for temporary disability, risk during pregnancy, risk during breastfeeding, maternity and paternity; 0.77 in the case of emigrants or children of emigrants and 0.89 for disabled persons confronted by special employability difficulties.

(e) *Joint collection bases and rates*

The contribution base for the purposes of unemployment, Insolvency Payments Service and vocational training in all Social Security schemes that cover such contingencies will be that for occupational contingencies.

The contribution rates for the purposes of unemployment, Insolvency Payments Service and vocational training will, as a general rule and as of 1 January 2017, be the following: (a) unemployment: (i) permanent contract: 7.05%, of which 5.50% will be borne by the employer and 1.55% by the employee; (ii) fixed-term contract: full time: 8.30%, of which 6.70% will be borne by the employer and 1.60%, by the employee; part time: 8.30%,

of which 6.70% will be borne by the employer and 1.60% by the employee; (b) Insolvency Payments Service: 0.20%, to be borne by the employer; and (c) vocational training: 0.70%, of which 0.60% will be borne by the employer and 0.10%, by the employee.

3. Pending the recommendations adopted within the Toledo Pact and the decisions that the legislator makes afterwards, the contribution rules maintain the (contribution) rate but modify the bases. This is done with an increase of 8% in the lower bases and an increase of 3% in the upper bases (the latter affecting, approximately, one million and a half workers). The increase in the national minimum wage has an influence, but the lower contribution bases are well above this increase. The purpose is strictly related to collection and tends to adjust the financial balance sheet to the pension system. Further measures are announced: uncapping of contribution bases and the amount of pension; modification of rates; changes to the scheme for self-employed workers and increasing of rates for the purpose of occupational contingencies. It will depend on the agreement reached regarding the Spanish government budget and the consensus found over the sustainability of the pension system.