

Labor legal issues on material incentives of employees

Питання трудового права, що стосуються матеріального заохочення працівників

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financial incentives for staff salaries, form of wages, remuneration system, employee award.

Ключові слова:

фінансові стимули для співробітників, види заробітної плати, система оплати праці, винагорода співробітників.

In a market economy conditions, priorities in the factors of ensuring the ultimate efficiency of enterprises, institutions and organizations has been radically change. Motivating of employees is a decisive factor. Employers interested in finding the best ways to influence at workers to improve the productivity and quality of their work.

Current Labor Code of Ukraine¹ in p. 1, Art. 1 states: "The Labor Code of Ukraine regulates labor relations of employees contributing to increased productivity, improving quality of work and the efficiency of social production and rising on the basis of material and cultural standard of living of employees, strengthening the labor discipline and the gradual transformation of work for the benefit of society into the first vital need of every able-bodied man". O.M. Yaroshenko insists that labor laws should encourage employees to high productivity work in accordance with signed labor contracts and protect them from the arbitrariness of employers. Such protection must not be excessive and hinder the development of production, job creation, and interfere with the employment of persons seeking work. According to the lawyer's opinion, it is necessary in the Labor Code consistently hold the next correlation of state and contractual regulation of relations in the labour field, such as: the state retains the right to consolidate and specificity of constitutional provisions and the basic procedures and the set of compulsory guarantees of employees' labor rights; the sectoral, regional, industrial and other features of labor organization and implementation of labor guarantees define on social partnership and collective contractually levels; individual-contractual regulation becomes a way of determining the immediate labour conditions and stimulation².

Production function aimed at increasing production efficiency by stimulating productivity growth. The rules of labor law are material incentives for workers its using can increase the production efficiency. These standards, for example, include rules that normally found in the local legal regulations and determine the size, conditions and procedures for payment of bonuses, incentive bonuses, payments, etc.³. Labor legislation setting clear regulation of labor rights and duties of participants in the production process contributes to optimization of production and thereby ordering the employment process.

The tasks and labor discipline ensuring at the enterprises become by employees encouraging to highly effectively working. At the V.I. Prokopenko's opinion, work is a creative activity, and the main force that motivates people to engage it is a need to obtain material resources to meet their interests⁴. This need becomes an objective of activities that affects at active employees' behavior. I.P. Zhyhalkin proves that the labor law should be referred to social law, that realize the functions of social and legal state, its main aim is education through the law most complete and comprehensive forms of human solidarity, socialization, stimulation of person's creative activity, ensuring dignity, security and personal freedom⁵.

¹ Кодекс законів про працю України : Закон УРСР від 10.12.1971 р. №322-VIII // Відомості Верховної Ради УРСР. – 1971. – № 50 (Додаток). – Ст. 375.

² Ярошенко О.М. Джерела трудового права України : дис. ... д-ра юрид. наук : спец. 12.00.05 / О.М. Ярошенко. – Х., 2007. – 476 с.

³ Прилипко С.М. Трудове право України : [підручник] / С.М. Прилипко, О. М. Ярошенко. – Х. : ФІНН, 2012. – 800 с.

⁴ Прокопенко В.І. Трудове право України : [підручник] / В.І. Прокопенко. – Х. : Консум, 1998. – 480 с.

⁵ Жигалкін І.П. Система принципів трудового права в умовах формування нової правової доктрини України : дис. ... д-ра юрид. наук : спец. 12.00.05 / І.П. Жигалкін. – Сєвєродонецьк, 2016. – 449 с.

M.O. Dei defines 3 major direction of incentives methods:

- a) a clear statement of production purpose, employee focuses his efforts in a particular direction to achieve it;
- b) changes in labor behavior using targeted incentives or, conversely, weaken or eliminate the negative aspects of labour activity. It provides an effective system of moral and material incentives of employee's labour efforts and the reasonable sanctions that allow to control the labour behavior;
- c) improving the meaningfulness of labour, reducing the share of manual labour, increasing safety, etc., that helps to produce a stable grounds of employees' labour behavior by enhancing the attractiveness of labour;
- d) the system of labour stimulation has lean on certain legal regulatory framework. The employee must know what requirements apply to him, information about reward for its implementation and sanctions in the event of non-compliance⁶.

E.V. Okhotskiy defines the stimulation of labour activity as the creation of moral and material conditions for an efficient and high-quality employee's labour, because, at their own, moral factors don't stimulate the employment⁷. Its implementation conditional on the employee, his needs and interests of its satisfaction, depending on its level of development: the higher level of development leads to the higher level of needs, and therefore the motivation to work will be stronger, as the desire for professional growth regardless of the type of activity. Thus, the basis of rational combination of material and moral incentives is the unity of basic economic interests of employees. As rightly said S.V. Venediktov: "Unilateral development of any one group of incentives – material or moral – reduces professional quality of staff <...> relieves the stimulation process of such characteristics as efficiency, feasibility, optimality and harmony. If material incentives expresses attitude to life and work primarily as to mean to material support of themselves and their families by everything necessary for life in consumption field, otherwise the moral incentives provides the need of employees... in public recognition of the results of their labour. So, the material incentives provides to employee not only means to normal life as an individual, but also indicates that the society needs his labour that allows the individual to feel their social and public significance; moral incentives is devoid of the characteristics of providing the personality by livelihood means and directed only to recognition his socially important achievements. Therefore, the most effective incentives for employees is that one that achieved double goals in harmonious combination, in the unity of incentives, labour efforts encourage can give the maximum effect⁸.

The system of material incentives of work is the set of main and additional indicators to measure the results of collective and individual labor, due to this system employed person receive various bonus payments to use their material incentives for productivity, efficiency and competitiveness increasing.

Material incentives made in cash and noncash ways. The first kind involves the introduction of highly efficient systems and forms of wages, improvement of existing and the introduction of a new tariff system, using of incentive payments and allowances to salaries, cash payments for goals achievement, "profit participation", sale of shares at discounted prices. The second involves discounts on goods produced by the organization, health insurance, improving the labour conditions and work safety, etc.⁹

The formation and using of specific material incentives and stimulation of outcomes under current conditions implement by the using of various forms and systems of remuneration. Thus, payment of remuneration due to material stimulation of employees of primary production carried out regardless the plan fulfillment by the section or organization. For the employees who are busy in production servicing here are the parameters of material stimulation that are directly describe the type of their work, among them: uninterrupted supplying of working places of primary production by raw materials, tools, components, all kinds of energy; ensuring the uninterrupted and rhythmic work of main production equipment; timely and quality repair of equipment and increasing of turnaround time of its operation; cost savings on maintenance and repair of equipment.

⁶ Дей М.О. Правове регулювання засобів стимулювання праці в умовах ринкової економіки : теоретичний аспект : дис. ... канд. юрид. наук : спец. 12.00.05 / М.О. Дей. – Х., 2005. – 212 с.

⁷ Служебная карьера : [учеб.-метод. пособие] / под общ. ред. Е.В. Охотского. – М. : Экономика, 1998. – 302 с.

⁸ Венедіктов С.В. Матеріальне та моральне стимулювання ефективної професійної діяльності працівників органів внутрішніх справ : теоретичний аспект : дис. ... канд. юрид. наук : спец. 12.00.05 / С.В. Венедіктов. – Х., 2004. – 186 с.

⁹ Економічний енциклопедичний словник / С.В. Мочерний, Я.С. Ларіна, О.А. Устенко та ін. – Т. 2. – Львів : Світ, 2005. – 616 с.

According to Art. 3 of the Law of Ukraine "On Remuneration of Labor"¹⁰ salary consist of the following components: basic salary, additional wages (including bonuses, allowances, warranty and compensation, according to current legislation, premiums related to the job tasks and functions fulfillment), other incentive and compensation payments.

The bonus is the main type of extra benefits. It is paid to employees based on the results of labor activity of employees and production in general by the indicators and conditions of evaluation of these results established by the enterprise. Instead, allowances and bonuses are guaranteed by legislative or regulations benefits to the employees related to labour features and conditions and to personal qualities of employees.

There are incentives of single application (awarded the title), and multiple application (awarding by the gifts) and permanent (bonuses) according to the multiplicity of the stimulating effect of incentives. Depending on the intensity of the impact of incentive mean on the needs of the employee – they are short-term (issue premium), recurrent (privileges and preferences) and long term (awarded the title). As you can see there is the developed system of incentives. And all mentioned types to some extent deserve the attention and use. However, the essence of incentives means we can disclose just by studying its individual shapes. The incentives types include, for example, rewarding by valuable gift, providing material goods and others. Rewarding by valuable gift as a mean of incentives is not always an effective today, because without regard to employee's needs and demands it cannot stimulate labor activity and thus it doesn't perceived as incentives. Therefore, in many cases is much better to present sum of money. In this regard, some scientists proposed from two kinds of material incentives – issuing bonuses and rewarding gift or valuable gift – leaving only premium¹¹. The relatively new kind of incentives can be considered a so-called "bonus free time". In practice, the implementation of this type of incentives could involve the release of the employee from performing job duties and pay for this time wage – providing additional holiday, preferential right to timing vacations, establishing flexible work schedule and more. In particular, the incentive holidays referred to the Art. 187 of the Draft Labor Code of Ukraine (registration № 1658, revised text on 20 May 2015)¹²:

1. As an incentives for the execution of state or public duties, laws and collective agreements could provide to the employees an additional leave on full or partial pay.
2. Collective Agreement (and if an agreement is not fit) regulation act of the employer issued after consultation with the elected body of primary trade union organization (trade union representative) could provide the incentive leaves for the employees for the conscientious fulfillment of job duties, for long-term conscientious work or for other basis with partial or full pay.
3. On the initiative of the employer on the grounds provided in the second part of this article the incentive vacation could be granted, its duration determined by the employer.

However, the use of such incentives "bonus free time" is subject to the statutory requirements and it should taking into account the interests of the employee.

Forms of material incentives define by different essential characteristics. Thus, depending on the result of activity we could define collective and individual incentives determining incentive. Collective form helps for organization activity because employee's interests begin to coincide with the interests of the staff. The positive side of individual form is the clearly correlation between effectiveness of a particular employee and its rewards. The downside is the considerable difficulty in establishing indicators to measure the result of one employee. Due to the degree of awareness of the employee about the relationship between the activity results and incentives we could distinguish advanced (before the activity the employee is informed about the results what should be achieved and that he can get. Its positive quality in a fast stimulant effect) and joint form of stimulation (the employee get to know about his usefulness, he get the incentives only after the labour activity). Due to the results of work we could define positive incentives (for the high rates of labor) and negative incentives (for abnormal downward). According to the degree and nature of the concrete conditions of incentives obtaining we could distinguish common, standard, competitive forms. Due to the time difference between the result and incentives obtaining we could define immediate, current and prospective forms of incentives¹³.

¹⁰ Про оплату праці : Закон України від 24.03.1995 р. №108/95-ВР // Відомості Верховної Ради України. – 1995. – № 17. – Ст. 121.

¹¹ Дмитренко Г.А. Нові інструменти мотивації / Г.А. Дмитренко // Економіка України. – 2006. – № 5. – С. 28–30.

¹² Проект Трудового кодексу України (реєстр. № 1658, текст доопрацьований від 20.05.2015 р.) [Електронний ресурс]. – Режим доступу : http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=53221.

¹³ Методичні рекомендації щодо організації матеріального стимулювання праці працівників підприємств і організацій : наказ Мінсоцполітики України від 29.01.2003 р. № 23 [Електронний ресурс]. – Режим доступу : http://search.ligazakon.ua/l_doc2.nsf/link1/FIN13613.html.

In today's market economy conditions, when the labor market is in constant motion, not all employees are satisfied only with a high level of earnings, and therefore there is a need to develop new methods and forms of motivating employees. One of the most effective ways that is widely used in foreign companies is motivation through social package. In fact, it is, on the one hand, a motivational tool that integrates methods of material and nonmaterial incentives. On the other hand it is the system of measures that enables not only meet the needs of employees, but also directly affect at the production process. These packages include paid sick leave, health insurance, compensation for transport costs, training at the expense of the company, paid lunches, free mobile communication, providing vouchers to sanatoriums, financial assistance with marriage, birth, free loans, car using, etc.¹⁴

Thus, the incentive is the necessary element of a market economy. It is a complicated process, however, if it properly organized, you can get a significant positive effect. The choice of material incentives system, its frequency and the size depends on the specific of labour activity and on the specialization of the employee. It is important to understand the individual needs of different groups of employees and to choose the incentives system that will fit most of all. All this should be reflected in the local acts of enterprises. "In terms of ensuring rapid and effective impact on social relations, flexibility of current legislation in the labor process the local regulations take a significant place in shaping the legal status of the employee. This is because its content developed directly into the organization providing the necessary legal mediation of labour process. These acts under current conditions is the form of law that with no cumbersome adoption procedures is able to mediate social and labor relations in any enterprise and ensure its dynamic development. These considerations don't constitute the need to supersede the regulation of labor relations at the state level and so on. They must be judicious mix that would ensure the maximum interests of employees and employers in market conditions", – fairly correctly points O.M. Yaroshenko¹⁵. Thus, among the types of labour incentives the prominent place should belong to wages, because it fully reflects the relationship between the employee's labour results and its financial reward.

Анотація

У статті розглядається матеріальне стимулювання працівників як ключовий фактор для забезпечення кінцевої ефективності підприємств, установ і організацій. Розглянуто роль і методи таких стимулів, описано їхні типи й форми.

Summary

The article study on material incentives of employees as key factors to ensure the ultimate efficiency of enterprises, institutions and organizations. The role and methods of such incentives, it outlines the system and describes its types and forms.

Використана література:

1. Кодекс законів про працю України : Закон УРСР від 10.12.1971 р. №322-VIII // Відом. Верхов. Ради УРСР. – 1971. – № 50 (Додаток). – Ст. 375.
2. Ярошенко О.М. Джерела трудового права України : дис. ... д-ра юрид. наук : спец. 12.00.05 / О.М. Ярошенко. – Х., 2007. – 476 с.
3. Прилипко С.М. Трудове право України : [підручник] / С.М. Прилипко, О. М. Ярошенко. – Х. : ФІНН, 2012. – 800 с.
4. Прокопенко В.І. Трудове право України : [підручник] / В.І. Прокопенко. – Х. : Консум, 1998. – 480 с.
5. Жигалкін І.П. Система принципів трудового права в умовах формування нової правової доктрини України : дис. ... д-ра юрид. наук : спец. 12.00.05 / І.П. Жигалкін. – Сєверодонецьк, 2016. – 449 с.
6. Дей М.О. Правове регулювання засобів стимулювання праці в умовах ринкової економіки : теоретичний аспект : дис. ... канд. юрид. наук : спец. 12.00.05 / М.О. Дей. – Х., 2005. – 212 с.

¹⁴ Дмитренко Г.А. Нові інструменти мотивації / Г.А. Дмитренко // Економіка України. – 2006. – № 5. – С. 28–30.

¹⁵ Ярошенко О.М. Щодо природи локальних нормативно-правових актів у сфері трудового права / О.М. Ярошенко // Вісн. Акад. правових наук України : Зб. наук. праць. – № 2 (37). – Х. : Право, 2004. – С. 131–138.

7. Службная карьера : [учеб.-метод. пособие] / под общ. ред. Е.В. Охотского. – М. : Экономика, 1998. – 302 с.
8. Венедіктов С.В. Матеріальне та моральне стимулювання ефективної професійної діяльності працівників органів внутрішніх справ : теоретичний аспект : дис. ... канд. юрид. наук : спец. 12.00.05 / С.В. Венедіктов. – Х., 2004. – 186 с.
9. Економічний енциклопедичний словник / С.В. Мочерний, Я.С. Ларіна, О.А. Устенко та ін. – Т. 2. – Львів : Світ, 2005. – 616 с.
10. Про оплату праці : Закон України від 24.03.1995 р. №108/95-ВР // Відомості Верховної Ради України. – 1995. – № 17. – Ст. 121.
11. Дмитренко Г.А. Нові інструменти мотивації / Г.А. Дмитренко // Економіка України. – 2006. – № 5. – С. 28–30.
12. Проект Трудового кодексу України (реєстр. № 1658, текст доопрацьований від 20.05.2015 р.) [Електронний ресурс]. – Режим доступу : http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=53221.
13. Методичні рекомендації щодо організації матеріального стимулювання праці працівників підприємств і організацій : наказ Мінсоцполітики України від 29.01.2003 р. № 23 [Електронний ресурс]. – Режим доступу : http://search.ligazakon.ua/l_doc2.nsf/link1/FIN13613.html.
14. Дмитренко Г.А. Нові інструменти мотивації / Г.А. Дмитренко // Економіка України. – 2006. – № 5. – С. 28–30.
15. Ярошенко О.М. Щодо природи локальних нормативно-правових актів у сфері трудового права / О.М. Ярошенко // Вісн. Акад. правових наук України : Зб. наук. праць. – № 2 (37). – Х. : Право, 2004. – С. 131–138.

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