

BRIEF CONSIDERATIONS ON MEAL VOUCHERS, HOLIDAYS, GIFTVOUCHERS AND NURSERIES, DURING THE CURRENT CRISIS

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Abstract:

At the beginning of the sixth decade of the last century, in France, were created meal vouchers which have since spread to other European countries in order to encourage operators to contribute financially to better nutrition for employees in order to increase productivity and to improve the health of the population.

Subsequently, the meal vouchers model was also taken by the public institutions, during which it was created the necessary legislative framework for issuing them, and later on, on the same criteria, have also been issued holiday vouchers, giftware and nursery vouchers.

In our country, was first created the legislative framework for providing meal vouchers in 1998, gift vouchers and nurseries in 2006, and the legislation granting holiday vouchers was adopted in 2009.

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Regarding the meal vouchers, these are vouchers printed on paper or issued electronically similar to the bank's cards and used as payment instruments for the payment of the meal provided by the employer or for the purchase of food directly by the employees.

Unlike currency, the meal vouchers are irreplaceable value papers and are the creation of the French state in the six decade of the last century, then adopted by other states.

The main reason of the emergence of meal vouchers was to encourage employers to contribute financially to a better employee's

nutrition in order to increase productivity and improve the overall health of the population.

In Romania, the legal framework of meal vouchers is regulated by the Law 142/1998, as amended successively, most recently by the Law no. 291/2013 and it represents an extra-wage benefit, deductible and exempt from taxes for both the employee and employer, resembling to a personal allowance for food.

In accordance with the second article of the aforementioned normative act, the issue of the meal vouchers on paper or electronic form can only be done by authorized units of the Ministry of Finance or by the employers who have organized cafeteria-restaurant or buffets.

In order to be valid in accordance with the second article of the same law, any meal ticket issued in paper form must bear the number under which it was issued and the name and address of the issuer, the face value of the ticket, the period of validity, the interdiction to be used for purchase cigarettes and alcoholic beverages, space for the name and surname of the employee who is entitled to use the ticket, the space reserved for the entry stamp application and date.

Regarding meal tickets issued in an electronic format, according to Article 5 of the same law, it is imperative that they contain the name and address of the issuer, validity, interdiction to be used to purchase cigarettes and alcohol, and the name and surname of the employee entitled to use the instrument of payment. These data must be printed on the electronic voucher or otherwise must be stored in it.

In order to be protected against attempts of forgery, the paper meal tickets should contain security features such as different graphics elements, thermal or fluorescent ink, etc. and in electronic format must contain specific security features.

The paper food vouchers can be distributed by the employer in the last decade of the current month for the following month; according to the number of working days for which the distribution is made, but only if the issuer has paid in full by bank transfer.

When it comes to the electronically food vouchers, they are powered by the issuer in the last decade of each month for the following month, only with the nominal value corresponding to the number of working days in the month for which the transfer is made, but only if the employer made the full payment by bank transfer to their value.

With regard to the meal vouchers, we must mention that regardless the way they were issued, they may be settled by the issuer entities with which they have signed contracts, only by bank transfer.

At the same time, the meal vouchers, regardless of the support they were issued, can only be used for the payment of the meal or to purchase

food only in catering, food stores, canteens restaurant and cafeterias that the issuing units have concluded contracts for the provision of their services.

Likewise, we mention that regarding the meal vouchers on paper, they are considered fully utilized, even if the value for the products purchased or table paid is lower than their nominal value, while those issued in electronic format are used for the settlement of products purchased only until their value.

In other words, if the goods purchased or paid for meals with meal vouchers on paper is lower than the value of meal vouchers, do not entitle their holder to claim the rest in cash.

Regarding the electronically food vouchers, they can be used only to pay the value of meals or food, being excluded the possibility to be used for cash withdraw. The regulation is imperative and clear from paragraph 7 of art. 2 of law¹.

As far as we are concerned we believe that without this express provision, it would have been the same conclusion and result from a contrary interpretation of the provisions of paragraph 6 of the same article.

In our opinion, the Law no. 291/2013 does not expressly provide that the food vouchers are to be used exclusively on national territory but by the reference to the reasons considered by the legislature to create the legal framework for issuing them, we feel that the food vouchers can only be used on national territory.

However, the question is whether employees of the executive management of multinational or transnational are summoned, by the operative management of the home entity where they conduct its business, for analysis or short stages of training outside the national territory, could use the vouchers outside the country.

As far as we are concerned we believe that under current regulations, the meal vouchers issued in Romania can be used exclusively on national territory.

Our opinion is based on the fact that on the one hand are issued in national currency, on the other hand, the fact that issuers² - *other than units with canteens and restaurant buffets* - even if they are operators with headquarters in states European Union, have contracts for meal vouchers issued in Romania only with providers from the national territory.

¹ Law no. 142/1998, with its subsequent amendments

² By way of example here are: Edenred Romania for "*Ticket Restaurant*", Chèque Dèjeuner, for those with the same name, Sodexo for "*Gusto Pass*", Ascendi, Inc. for the called "*Tichet de masa*" and Cuget Liber Poligraf;

However, we do not exclude the possibility that in a less distant future the meal vouchers could acquire a tool of international payment character if their issuers - other than units with canteen and restaurant buffets - would have stated in the service contracts agreements with the providers from other states, that they will accept meal tickets issued in the EEA territory, and the site payment currency conversion to be made by the issuer.

At the beginning of the year 2016 it has been submitted to the Romanian Senate, as a first notified Chamber, the Chamber of Deputies as a decisional forum, a bill that provides for BIO vouchers, which allow employees only to purchase unprocessed foods, including from markets.

Under the provisions of the bill, these vouchers cannot have a share of more than 25% of the number of the vouchers per month, and the nominal value of such ticket is with 20% higher than the nominal value of regular meal vouchers.

According to the explanatory memorandum, employees will be forced in this way to eat healthy.

Also, according to the bill, BIO vouchers can be used only for the purchase of unprocessed food products, including food markets, as well as foods that are labeled as BIO.

Regarding the **holiday vouchers**, we mention that these are issued based on the GEO no. 8/2009, published in M.O. 110 / 24.02.2009, as amended by Ordinance no. 8/2014 adopted with amendments by the Law no. 173/2015.

According to that legislation, in order to recover and maintain the working capacity of employees, employers may grant vouchers called *holiday vouchers*.

In accordance with the first article of the mentioned regulation¹, the holiday vouchers are granted in the limit of the amounts for this purpose in the state budget or the budgets of local entities and within the budget for this purpose in the budget of revenues and expenditures for other employers.

As in the case of the meal vouchers, the holiday vouchers can be issued both in paper and electronic form of card. However, regardless the form they are, the holiday vouchers are issued only by the units authorized by the Ministry of Finance.

According to the second article of the enactment, the paper holiday vouchers are valid only if they have the unit's serial number and if they include the following: **a)** the issuer and its identification data; **b)** the nominal value of the holiday voucher; **c)** the employer and its identification data; **d)** the name and personal identification code of the employee who is

¹ EDG no. 8/2009 with its subsequent amendments

entitled to use it; **e)** the space for the registration of the period when it was used and the application of the affiliated unit stamp; **f)** the prohibition for the affiliated unit to pay the difference in money between the value of the holiday voucher and the package of services to their users; **g)** the duration of the holiday voucher; **h)** the prohibition of the use the holiday voucher in places other than the affiliated units; **i)** visual identity elements of Romania's tourism brand.

Simultaneously, according to the second paragraph of the second article¹, the electronically holiday vouchers are valid only if the entries letter a), c), d), g), h) and i) from the previous paragraph are inscribed upon it or otherwise stored in its memory.

In other way, we must mention that the electronically holiday vouchers cannot be used to withdraw cash from ATMs.

Holiday vouchers are an alternative to holiday bonuses granted by employers, which they also replace, according to the mentions of the enactment, and their value is tax deductible and exempt, for both the employee and employer. However, the maximum commission that can be charged from the employer and the tourist facilities affiliated with the issuer of the holiday vouchers cannot in aggregate exceed 1% of the holiday ticket value and the travel agent commissions as an affiliated unit may not exceed 10% of the value of the touristic package.

The employees can buy with the vacation vouchers complete packages from tourist units within Romania, such as travel agencies, hotels, spa treatment units or leisure or pensions approved by the National Authority for Tourism.

However, if the purchased tourist packages value exceeds the holiday vouchers value granted by the employer, the difference shall be covered from the own funds of the employee.

Regarding the **gift and nurseries vouchers**, the legal framework for the issuance and granting them is established by the Law no. 193/2006, with the latest changes brought by the GEO no. 121/2011.

According to this regulation, gift vouchers and childcare is given by the economic operators, public institutions, co-operative and other legal entities and individuals who hire staff based on an individual employment contract.

In the same vein we argue that the gift vouchers are used in marketing campaigns for market research, protocol, or for advertising, publicity or social expenses.

Also, the nursery tickets is given on request of a parent or guardian or person to which children have been entrusted to the care and education

¹ EDG no. 8/2009 with its subsequent amendments

on the basis of the family book, from funds provided entirely by the employer until the child reaches the age of three years old .

In accordance with the second paragraph from the 4th article of the enactment¹, childcare vouchers are granted within the budgetary provisions for both public sector entities and other categories of employers.

In the same time, the third paragraph from the 4th article of the law², childcare vouchers are granted only to employees who do not receive parental leave and allowance for raising children up to 2 years, or up to 3 years for those with disabilities.

It is important to note that the value of the nurseries vouchers may be added to the state allowance for children and to the incentives for resuming work by the employee, provided the Government Emergency Ordinance no. 148/2005 on support to families for raising children.

As with meal and holiday vouchers, the gift vouchers as well as the nursery vouchers are issued by specialized units in the covered authorized the Ministry of Finance.

In accordance with the 7th article of Law no. 193/2006 as amended, the value of a nursery ticket or gift voucher is 10 (ten) lei or a multiple of ten, but cannot exceed the amount of fifty (50) lei, while the nominal value of nursery vouchers which may be granted monthly for each dependent child is 300 (three hundred) lei and can be indexed quarterly with the inflation index communicated by the National Statistics Institute.

Nursery tickets may only be used for paying the taxes to the nursery where the child is enrolled and if the monthly cost to that breeding and education is below the nominal amount paid monthly, beneficiaries are not entitled to receive the remainder in cash.

According to the 6th article of the enactment, or the nursery gift vouchers are only valid if they have the registered serial number of the issuing unit, and have listed at least the following elements: **a)** the name and address of the issuer; **b)** the nominal value of the voucher; **c)** the period of validity; **d)** space for the registration of surnames and forenames of the employee who is entitled to use the childcare voucher; **e)** space for recordkeeping and enforcement unit stamp.

As with the meal and holiday vouchers, the gift and nursery vouchers are tax deductible, and the settlement between the employer and the issuing unit and between the latter and the educational unit or shops are solely done by bank transfer.

¹ Law no. 193/2006, with its subsequent amendments

² Idem

As it can be seen, the enactment regulating for gift and childcare vouchers does not provide for the issuance of these categories other form than then paper vouchers.

As far as we are concerned, we believe that although their legal status is similar to that of meal vouchers or holiday, apparently nothing precludes the possibility of issuing these vouchers in an electronic form card. However we consider that in order to be issued in electronic form the gift or nursery vouchers, it should be amended the Law no. 193/2006 as amended, to establish another way of *making mention of the registration date and the stamping from the unit where the voucher was used.*

Conclusion

In conclusion, regardless of the method to grant any of the categories of vouchers mentioned above, these are incentives provided by the employer both for restoring the employee's ability of work and also supporting employees' families during a minor children growth up to age two or three years old and it may be granted cumulatively.

References

Law no. 142/1998, with its subsequent amendments
EDG no. 8/2009 with its subsequent amendments
Law no. 193/2006, with its subsequent amendments