The Moscow Times
30 YEARS
INDEPENDENT NEWS FROM RUSSIA

B2B: Electronic Salary — to Pay or Not to Pay?

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October 15, 2015

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Electronic payment systems are gaining popularity, and clients often ask us whether they can use electronic money to pay salaries to their employees. This question is of particular interest to companies engaging teleworkers and temporary or part-time staff.

From a formal standpoint, the Labour Code contains no prohibition on using electronic money. Moreover, the law clearly puts electronic money on an equal footing with "normal" money, so, at first glance, using electronic money (denominated in rubles) to pay salary in Russia should comply with the law. This opinion is supported by most experts, and, indirectly, by the Federal Tax Service, which has approved a standardized form to report on electronic payments, with salary included on the form as one of the purposes of the electronic payment. Nevertheless, we advise companies to pay attention to a number of practical issues in this sphere.

First of all, the employee should consent to receiving salary in electronic money and should submit a written application indicating the "electronic purse" to which salary should be paid. We note that employees rarely welcome the idea of being paid in electronic money, as they treat this innovation with caution. Practice so far shows that employers face no protest only in cases where electronic payments are insignificant or irregular and amount to a small part of the individual's income (and this generally occurs in the context of independent contractor's agreements, not employment). In other cases, the company's attempts to transfer its staff to "electronic salary" give rise to a negative reaction from employees.

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Secondly, the company should remember that the Russian Labour Code requires salary to be transferred to a credit organization, and an electronic money operator should be a credit organization by virtue of the law. Still, it would be good practice for the company to check that the specific operator of the "electronic purse" complies with this legal requirement. To this end, the company can consult the register of electronic money operators (credit organizations), which is available on the website of the RF Central Bank.

Another possible barrier is the limit of electronic money that can be transferred, which is a result of the limit on the amount of electronic money that can be accumulated on a single account. This limit is currently set at 600,000 rubles as maximum for a personalized purse and 15,000 rubles for a non-personalized one. Thus, if the employee is to receive, for example, a monthly salary of 30,000 rubles but already has 590,000 rubles on his personalized account, the payment will not be processed. Some believe that this impediment can be overcome by contractual provisions obliging the employee to keep his "electronic purse" personalized and "available" for salary. However, there are serious doubts as to whether a violation by the employee of this duty would relieve the company of its obligation to timely pay salary. In view of this technical barrier, certain experts believe that paying salary in electronic money is not possible as such, given that the company can be prevented from properly performing its obligations by obstacles beyond its reasonable control. It should also be remembered that delaying salary payments can lead to sanctions (theoretically, up to criminal liability) and, in addition to this, employees can now petition to have the company declared bankrupt if it has failed to pay salaries (this legal right was given to employees by legislative changes that are in force from September 29, 2015).

Last but not least, an important practical aspect that needs to be remembered is the commission for encashment. It is recommended that the company takes care of the

encashment charges and adds the encashment commission to the electronic amount it transfers. If this is not done, the employee may claim that he is not receiving his contractual ruble salary.

To sum up, we note that, though paying salary in electronic money appears to be legal in strict formal terms, the company should think hard before switching to this method from standard payments. Care should be taken regarding the above practical aspects, and changes should be made to the relevant HR documentation.

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Original url:
https://www.themoscowtimes.com/2015/10/15/b2b-electronic-salary-to-pay-or-not-to-pay-a50299