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Legal and tax regulations for Edenred Premium Cards



EDENRED PREMIUM CARDS LEGAL AND TAX REGULATIONS

Pursuant to Article 21(1)(6a), (68) and (68a) of the Act of 26 July 1991 on personal income tax (consolidated text, Dz.U. [Journal of Laws] of 2018, item 1509 as amended), the natural person is exempt from income tax for example when obtaining the following free of charge:

- Benefits provided as part of promotions or advertising – up to PLN 200 on a one-off basis – whereas the exemption does not apply to benefits provided e.g. for the entity's own employees or contractors (68a);
- Awards related to premium sales of goods or services – up to PLN 200 on a one-off basis – provided that the award does not apply to business activity conducted by a natural person (68);
- Prizes in contests in the field of science, culture, art, journalism and sports – up to PLN 2000 on a one-off basis (68);
- Prizes in contests organized and broadcast (announced) by the mass media (the press, radio and television) – up to PLN 2000 on a one-off basis (68);
- Prizes in a promotional lottery – up to PLN 2280 on a one-off basis (6a).

In the above-mentioned cases, the service provider (organizer) is not obliged to charge a tax and submit a tax return form (PIT-11 or PIT-8AR).

How to charge and pay a personal income tax if it is due?

If the conditions entitling the person to be exempted from the tax have not been met, before giving the award, the organizer of a premium sale, a contest or a promotional lottery is required to charge a tax in the flat amount of 10% of the value of the award / prize from the awarded person / winner and pay the tax to their Tax Office until the 20th day of the month following the month when the tax was collected. The organizer sends a yearly tax return form (PIT-8AR) to the Tax Office until the end of January of the year following the tax year, whereas in the case of other benefits provided as part of promotions or advertising, the entity that has issued them, as a rule, prepares PIT-11 information and sends it to the natural person and their Tax Office. This information is sent until the end of February of the next tax year.

Basic types of promotion – tax rates:

	Premium sales	Contest	Lottery	Other promotions
Tax exemption threshold	PLN 2000 *	PLN 2000 / PLN 0 *	PLN 2280	PLN0
Tax value	10%	10%	10%	As per participant's tax rate
Settlement method	PIT 8AR (collectively)	PIT 8AR collectively	PIT 8AR (collectively)	PIT 11 (individual for each participant)
Settlement deadline	Until the 20 th day of the next month after giving the award	Until the 20 th day of the next month after giving the award	Until the 20 th day of the next month after giving the award	Until 31 January of the next year after giving the awards

CORPORATE INCOME TAX

Tax deductible expenses are costs incurred in order to achieve revenues from the source of revenues or in order to keep or secure the source of revenues, except for the costs mentioned in Article 16(1), pursuant to Article 15(1) of the Act of 15 February 1992 on corporate income tax (consolidated text, Dz.U. [Journal of Laws] of 2017, item 2343 as amended).



PREMIUM SALES

We will not find a definition of this term in the tax act. However, in practice, it is deemed to be a formalized action in which an award is granted to the purchaser for making a specific purchase. Therefore, the premium sale is related to making the sales of particular goods or services more attractive by granting some other goods or services as an award, or offering a price reduction for the future shopping. This reduction can be granted in the form of discount or through the opportunity to collect points as part of a loyalty program. As defined by the Personal Income Tax Act, the premium sale should be carried out in accordance with the terms and conditions. The terms and conditions usually assume that an award is added to any specific and pre-determined goods or services sold in a given period, or alternatively to goods or services of a specific value. The award is thus given to every purchaser of the promoted goods or services who will accept the terms and conditions of the promotion and meet the required conditions specified therein. This way of understanding of premium sales is consistently confirmed in interpretations of tax authorities.

What is not a premium sale?

Certainly it is not a promotion where an award is given at random, e.g. to every tenth customer purchasing the goods. The premium sale does not also happen when awards are drawn among purchasers of rewarded goods taking part in promotions. What is more, in accordance with the common position of tax authorities, the premium sale does only happen when the same entity (the seller) sells rewarded goods or services and gives awards. From the legal side, the action is not a premium sale when its rules are not specifically and clearly defined or when there are no objectively determined conditions for receiving the award. Therefore, it is essential to remember to write down the proper rules of promotions in the terms and conditions accepted by customers.

Premium sales do not include promotional campaigns involving giving awards in return for transactions made, addressed to contractors' employees. This results from the fact that in this case people entitled to receive bonuses are not a party to the sales contract, but they only represent the purchaser.

The terms and conditions are essential

No matter what form of sales support you will choose, the properly prepared terms and conditions are crucial. Their contents must be adjusted to the rules of the action you are carrying out. The terms and conditions of premium sales should include:

- the organizer's name and a definition of addressees of the promotion,
- the time and place of the action,
- the conditions of participation in the promotion,
- a description of the rules of the promotion, including conditions of receiving an award,
- a description of the award and its value, together with the way of handing it over, etc.

Remember to gather detailed documentation confirming the compliance with the requirements necessary to receive and give the award.

Tax effects

When planning premium sales, you should take into account the necessity of paying 10% of the flat-rate personal income tax, which is charged on the value of awards given in premium sales addressed to consumers. The organizer charges the tax before giving the awards, pays it to the Tax Office and submits a tax return form (PIT-8AR).

It should also be known that the Personal Income Tax Act (Article 21(1)(68)) provides for the exemption from the tax for awards in premium sales, if the one-time value of the awards does not exceed PLN 2000. It should only be remembered that the tax exemption for awards related to premium sales does not apply to awards received by a taxpayer in connection with non-agricultural business activity conducted by them, as it is their business income. In this situation, the organizer of the premium sale is not the payer of the tax or advance tax payments and has no obligations due to this. However, the prize winner is obliged to recognize its value against their business income.



CONTESTS

As with promotional campaigns related to premium sales, in accordance with the Personal Income Tax Act, before giving out the prize, the organizer of the contest is required to charge a tax in the amount of 10% of the value of the prize from the winner and pay the tax to their Tax Office until the 20th day of the next month after the month when the tax was collected. The organizer sends a yearly tax return (PIT-8AR) to the Tax Office until the end of January of the year following the tax year. The Act also provides for the exemption. The value of prizes won in public contests up to PLN 2000 is exempt from the tax (Article 21(1)(68)) of the Personal Income Tax Act).

Due to their short duration, contests are an attractive solution used by companies to support sales and launch new products. An essential element of contests is competition aimed at achieving the best result, and the prize is usually granted on the basis of knowledge or skills. The contest organizer selects the winner or several winners from among the group of the best participants who have met specific criteria. When conducting a contest, makes sure to define its detailed rules in the terms and conditions and control the course of the action. Failure to comply with these rules may make the action be classified as another type of activity, in particular a lottery (when the so-called randomness occurs) or a representation (if there are no objective rules for selecting winners). Contests can include knowledge of culture, science, art, etc., as well as the company itself and its products. They can be organized and broadcast or conducted in another way. Contests are most often addressed to consumers, contractors (distributors, wholesalers, retailers, etc.), outlet employees and the organizer's employees.

Tax effects

For contests, like in premium sales, you should remember about the necessity of paying the flat-rate personal income tax in the amount of 10%, which is charged from the value of the prizes in a contest addressed to consumers. The organizer charges the tax before giving the awards, pays it to the Tax Office and submits a tax return form (PIT-8AR).

It is also good to know that the Personal Income Tax Act (in Article 21(1)(68)) provides for tax exemption if the one-time value of the award does not exceed PLN 2000, for contests in the field of science, culture, art, journalism or sports, or contests organized and broadcast by the mass media (the press, radio and television).



LOTTERIES

A definition of the lottery is contained in Article 2(1) of the Gambling Law: “Games of chance are the games, including games organized via the Internet, for cash or non-cash prizes, whose result depends particularly on pure chance”. A distinctive feature of such games is the occurrence of an element of randomness.

Promotional and audio-text lotteries are the most popular ones. In a promotional lottery, it is necessary to purchase a product or service that entitles the purchaser to take part in the game free of charge, whereas in an audio-text lottery the participation only involves sending payable short text messages (SMS) or making a payable phone call using a public telecommunications network. Regardless of the lottery type, the organizer offers cash or non-cash prizes.

Documentation is essential

If you decide to conduct a lottery, remember to obtain permits, which requires time. Therefore, make sure to plan individual steps sufficiently in advance, even several months before the start of the action. Organizing a game of chance without required permits has its legal and financial effects for both the organizer and the participant.

Promotional lotteries can be conducted by natural persons, legal persons or unincorporated organizational units. The exception is audio-text lotteries that can be organized solely by joint-stock companies or limited liability companies having their registered offices in the Republic of Poland. In addition, the Gambling Law says that people or companies supervising lotteries have to possess certificates of professional competence issued by the Minister of Finance and to appoint an internal commission supervising the proper conduct of the lottery. To organize it, it is required to have permission from the Director of the Customs Chamber, which is in force for the duration of the lottery. The application for a promotional lottery is examined within two months from the day of submission. Another essential element is to prepare the terms and conditions including e.g. the lottery name, its rules, the complaint handling deadline and procedure, the goods sale period, etc.

Tax effects

Pursuant to Article 30(1)(2) of the Personal Income Tax Act, the flat-rate tax in the amount of 10% is charged for awards in lotteries. As with premium sales, the organizer charges the tax before giving the awards, pays it to the Tax Office and submits a tax return form (PIT-8AR).

The legislator also provides for relevant tax exemption (Article 21(1)(6a) of the Personal Income Tax Act): the income tax exemption includes “prizes in gambling games, if the one-time value of these prizes does not exceed PLN 2280, and the games are organized and conducted by an entitled entity in accordance with gambling games regulations applicable in an EU member state or in any other country that belongs to the European Economic Area.”



Contact

Edenred Polska Sp. z o.o.

ul. Rozbrat 44a

00-419 Warsaw

phone +48 22 209 82 59

lojalnosc.edenred.pl

www.edenred.pl