

Postponement of Annual Leave

As we approach the end of the year, it is worth recalling the rules that apply to the postponement of annual leave. In principle, annual paid leave must be granted and taken during the current year. Nevertheless, in certain cases and under certain conditions, it may be postponed beyond 31 December.

Annual leave may be exceptionally postponed beyond 31 December of the current year in the following 4 cases:

- The proportional leave in the **first year in the employ of the employer** may be postponed **until 31 December of the subsequent year**. To that end, the employee must apply to his employer, who may not refuse such postponement. (Article L 233-9 section 2 of the Labour Code).
- Leave not taken at the end of the year because of the needs of the company or justified wishes of other employees can be postponed **until 31 March of the subsequent year**. (Art. L 233-10 of the Labour Code).
- Annual leave not yet taken by a pregnant employee at the start of her maternity leave may be postponed in principle **until 31 March of the subsequent year** (Article L332-3 of the Labour Code). The same applies to setting-in leave and parental leave.
- Following a decision of the Court of Justice of the European Union (CJEU; "Schultz vs. Hoff," 20 January 2009), an employee who has been sick for a long period of time may no longer lose his right to annual leave. Thus, if he cannot take his holidays in the course of the year in which they are due because of incapacity for work, the employee is entitled to a postponement of the holidays until the subsequent year.

Nevertheless, the employer is authorised to introduce a more flexible leave postponement system at all times (Example: unlimited postponement of leave from one year to the next; introduction of a time savings account, etc.).

When the employer indicates on the salary statements the postponement of hours of leave not taken from one year to the other, the postponement shall then be presumed to be unlimited. Holidays not taken can then be used until 31 December.



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