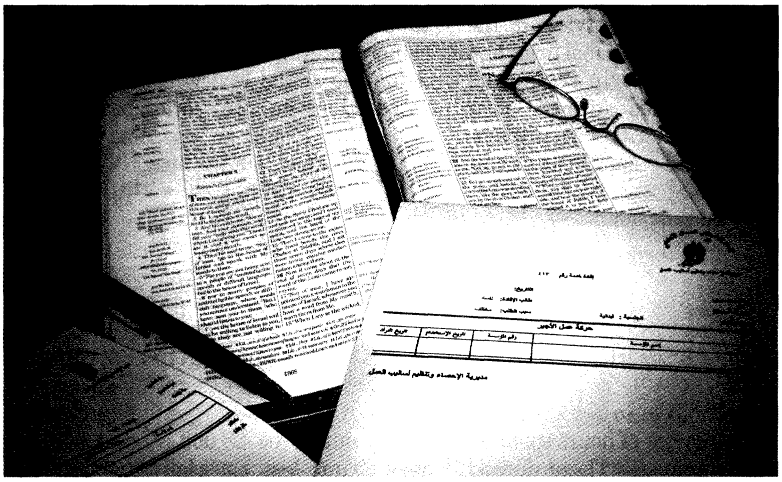
Links: Click this article's entry in 'Table of Contents' on our website

# Dealing with the NSSF



*Jacques Saadé* reviews some of the thorniest points relating to the National Social Security Fund (NSSF). Saadé is managing partner of Mazars (Lebanon), an international company specializing in audit, accounting, tax, and advisory services.

The law on social security contributions and its application are straightforward enough. In practice, however, there are a number of gray areas of which companies should be aware in order to avoid facing problems with their employees and National Social Security Fund (NSSF) officials. Saadé has one overarching piece of advice to give to companies: "Comply with all the rules and regulations, pay all your dues, and be completely transparent in dealing with employees' NSSF rights, because it all gets caught eventually."

**What is the single biggest reproach companies have against the NSSF?**

The biggest problem companies have had with NSSF procedures lately has been with the increase in salary to counteract the increased cost of living. The government decree regulating NSSF declarations on this salary increase stated that the increase of LL 200,000 ($133) was to cover all the employees [earning $1,000 a month or less] of the company simultaneously. Obviously, for companies with a large number of employees, this represents a huge cash flow incidence. The other problem that resulted from this salary increase was that some companies considered that they had already given their employees an equivalent increase to cover the high cost of living, but they had not entered it as part of the basic salary. Rather, they had counted it as a bonus, or as additional benefits, etc. So, they didn't want to have to give yet another increase in the form of an increase in basic salary. Companies should therefore be careful to clearly label any increases in salaries as being in compensation for a higher cost of living, to justify them with the NSSF. Increases must be registered as a separate criteria and a company must be able to prove they have taken place.

**What are the most common disagreements between companies and NSSF authorities?**

Firstly, which employees must be registered with the NSSF. Companies can become caught between the NSSF law and the Code of Labor. NSSF regulations state that employees must be registered from the tenth day they are with the company, whereas the code of labor states that employees undergo a probationary period of three months before they are confirmed with the company. 'Hard line' NSSF controllers apply the ten-day rule across the board, whereas more lenient controllers might accept that a company doesn't register employees who have not yet completed their three-month probationary period. One major problem that resulted from this disagreement on employee status is the lump sum remuneration that is provided for under NSSF law for temporary workers, and which allows for a three percent contribution tax on the total remuneration amount. The problem is that the necessary decrees were never issued to specify these temporary employments (trainees, temporary workers, and seasonal workers). So, for the moment, everybody has to be declared and contributions must follow the normal ratios (see table). The only solution would be to have these decrees issued to give special status with special NSSF contributions to these temporary workers. For example, decrees would define trainees as being university students under 25; temporary workers would be given a specific time period of, say, three months; and seasonal workers would be those involved in specific activities, such as ski resorts.

**What parts of employee compensation are subject to NSSF contributions?**

Every type of remuneration that employees obtain in return for services rendered to the company must be declared, be it in cash or in kind. This includes bonuses, overtime pay, car allowances, rental allowances, etc. Companies that thought they could reduce NSSF contributions by registering items as 'expenses' in their books will face problems with NSSF controllers if an inspection is ever carried out. The only three compensation items that are not included in NSSF contributions are transportation, schooling allowances, and restaurant tickets.

**What should companies watch out for when employees quit, are dismissed, or when they reach retirement age?**

When employees leave a company, they have the right to cash their accumulated NSSF contributions. However, the amount they cash is calculated on the basis of their last salary. So, there is always a discrepancy between what the company has paid as contributions on behalf of

## NSSF EXCLUSIONS

| | |
|---|---|
| Transportation allowance | LL 8,000 per day |
| Restaurant tickets | LL 5,000 per day |
| Schooling allowance | LL 1 million per year |

## END-OF-SERVICE INDEMNITY

| NUMBER OF YEARS OF CONTRIBUTION | INDEMNITY |
|---|---|
| More than 5 years | 50 % |
| Between 5 and 10 years | 65 % |
| Between 10 and 15 years | 75 % |
| Between 15 and 20 years | 85 % |
| More than 20 years | 100 % |

*Source: NSSF Law*

the employee, and what the employee cashes at the end of service or upon severance. In other words, monthly contributions are calculated based on current salaries paid, but collection is calculated based on the last (and highest) salary paid. The company must cover that difference. Companies should ensure they have enough funds to cover this discrepancy. Another potential problematic area is when an employee is unfairly dismissed. In this case, the employee is entitled to between twice and twelve times the last salary paid. The only way a company can be exempt from paying this compensation is if it can prove that it had sent repeated warnings to the employee without obtaining compliance. These warning must be officially registered with the Ministry of Labor. It is advised that companies find a way to resolve these disagreements with employees amicably to their mutual satisfaction, because an unsatisfied employee can raise a complaint with NSSF authorities, which will lead to a full inspection by NSSF controllers.

**How widespread is the practice of under-declaring salaries or not declaring certain employees, and what potential problems could that lead to?**
Some companies use this practice as a way to solve cash flow problems as it allows them to declare lower monthly contributions. In the long run, however, employees will want to cash their full legal dues. In case of contentions, this opens the door to a full NSSF inspection, which will result in very steep penalties. So, in a way, this is just postponing the problem. My advice is that companies declare the full salary amounts and make proper provisions to ensure their employees' rights and their peace of mind.

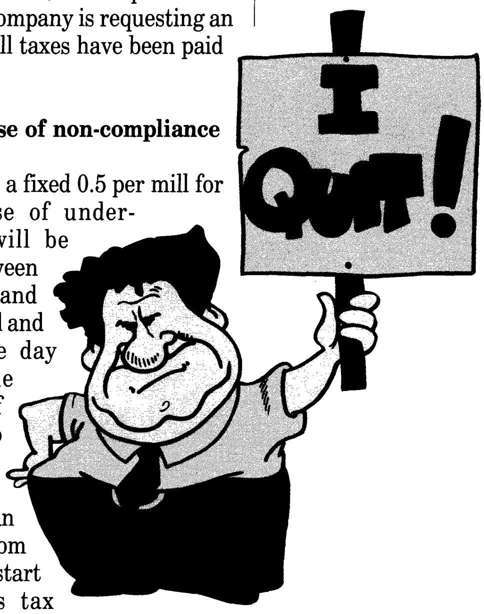
**Are there any incentives (potential discounts, tax breaks, etc...) that companies can benefit from?**
Unfortunately, there are none. The only incentive for full compliance with NSSF regulations and a full declaration of salaries is the reward of avoiding possible penalties if any fraud or evasion is discovered.

## NSSF CONTRIBUTIONS

| TYPE OF CONTRIBUTION | EMPLOYER'S SHARE | EMPLOYEE'S SHARE | CEILING |
|---|---|---|---|
| Medical allowance | 7 % | 2 % | LL 1.5 million |
| Family allowance | 6 % | — | LL 1.5 million |
| End-of-service indemnity | 8.5 % (of which 0.5 % as NSSF costs) | — | None |

*Source: NSSF Law*

**How frequent is a review by NSSF authorities on companies' compliance with NSSF declarations?**
There is no regular, systematic NSSF inspection schedule. Controllers usually inspect a company only if a complaint has been filed against it (and complaints are entirely anonymous) or if the company is requesting an official statement confirming all taxes have been paid in order to change address.




**What are the penalties in case of non-compliance with NSSF laws?**
The most significant penalty is a fixed 0.5 per mill for every day of delay. In case of under-declaration, this penalty will be applied to the difference between what was actually declared and what should have been declared and will be calculated from the day contributions were due (normally, from the tenth day of employment). It is important to note here that there is no time period after which the taxes due are dropped. Controllers can inspect a company's books from the date of its inception. They start by looking at a company's tax declarations (particularly at the section on salaries and wages) and compare that to what has been declared on NSSF contribution sheets. They may also request to look into general or operating expenses if anything looks suspicious, such as car allowances, etc., as these would be liable to NSSF tax.

*Reported by Soha Yammine*

### ON OUR WEBSITE

More information is available by typing the numbers below into the **Reference Finder** on our home page

- **L0309-88** Unfair dismissal definition
- **L0309-89** Decree 500 on minimum wage increase
- **L0309-90** Decree 501 on transportation allowance
- **L0309-91** Sample NSSF declaration form
- **L0309-92** NSSF Law
- **L0309-93** Contact information

▸ www.opportunities.com.lb