



Unused annual leave can be encashed



LEGAL VIEW
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I have unused leave balance and am entitled to leave encashment on my resignation from the company. What would be the salary that I will be getting for my unused leave on resignation? Would this be the basic only or last drawn salary including accommodation and travel allowances?

It is understood that you wish to resign from your current employment and have not utilised all your annual leave and now want to encash the unutilised annual leave.

You are entitled to the salary for all unutilised annual leave along with the end-of-service benefits pursuant to your resignation from your current employment in accordance with Article 79 of the Federal Law No. 8 of 1980 regarding Labour Relations (Labour Law) which states, "Where a worker is dismissed or leaves his job after the period of notice prescribed by law, he shall be entitled to remuneration in respect of any days of annual leave not taken. Such remuneration shall be calculated on the basis of the remuneration that he earned on the date on which the leave became due."

Since you are resigning from your employment, you are entitled to the leave salary which will be calculated on the basis of the last remuneration drawn in accordance with Article 1 of the Labour Law which defines "Remuneration" as "All payments made to the worker on a yearly, monthly, weekly, daily, hourly, piece work, or production or commission basis, in return for the work he performs under the contract of employment, whether such payments are made in cash or in kind. Remuneration shall include the cost of living allowance.

It shall also include any grant given to the worker as a reward for his honesty or efficiency if

such amounts are provided for in the contract of employment or in the internal regulations of the establishment or have been granted by custom or common practice to such an extent that the workers of the establishment regard them as part of their remuneration and not as donations."

No ban after one year

My current employer is a manufacturing company and I'm employed as a clerk (as stated on visa) but working as an accountant on an unlimited contract. My date of joining was August 10, 2013, but the visa was stamped on my passport on October 15, 2013. The probation period listed on my labour contract is for six months and my gross salary is Dh3,500 per month.

I have just been offered a job elsewhere for Dh5,000 per month. I have already given my resignation and am currently undergoing my 30-day notice period. I am a graduate. My degree is duly notarised and legalised from the country I obtained it and also attested by the Ministry of Foreign Affairs of the UAE.

I want to know whether there would be a labour ban against me for six months if I leave the job now that as I have completed one year in service. Do I require

any NoC from my previous employer? Can the employer impose any ban on me and how the two years will be calculated: is it from the date of joining or from the visa stamping date?

It is learnt that currently, the Ministry of Labour does not impose a ban on an employee if the employee has completed one year of continuous employment with his current employer. Since you are employed on a employment contract of unlimited duration and have completed continuous employment of more than one year with your current employer, there may be no ban imposed on you in accordance with Article 117(1) of the Federal Law No. 8 of 1980 regarding Labour Relations (Labour Law) which states, "Both the employer and the worker may terminate a contract of employment of unlimited duration for a valid reason at any time following its conclusion by giving the other party notice in writing at least 30 days before the termination."

Besides, there is no requirement of 'No Objection Certificate' from your current employer and he may not be in a position to impose a labour ban on you as you had submitted the resignation in accordance with the Article 117(1) of the Labour Law as stated hereinabove. Your employment commences from the date you started work with your current employer, not the date your residence visa was affixed on your passport.

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