Sending Employees Overseas

KPMG Global Mobility Services

Irish businesses seeking to develop growth opportunities overseas are required to send Irish employees on business trips and assignments abroad to develop and expand these new markets. However, this is not a one-step process. This brochure outlines the various processes and considerations required to send employees on assignment overseas.

Overview of Factors to Consider

1. Immigration
2. Income Tax Issues
3. Relocation Expenses
4. Equity Compensation and other Share Options
5. Tax Policies
6. Social Security
7. Corporation Tax
8. VAT
9. Other Issues

Factors to Consider

1. Immigration

While Irish passport holders have the right to unrestricted travel throughout the European Economic Area (EEA), travel to other countries can be subject to approval by the authorities in those countries.

The requirements for entry to overseas locations are subject to constant change and border officials often take a very strict approach when dealing with business visitors.

It is therefore vital to ensure employees are travelling overseas with the correct documentation, including visas and/or work permits.

2. Income Tax Issues

Generally, work performed overseas can be divided into five main categories. Companies should consider which one of these categories their employee's arrangements falls into and how this will affect tax issues from both an employer and employee perspective.

i) Business visits overseas

Usually an Irish resident who visits foreign countries for short business visits will remain an Irish tax resident and normal Irish payroll taxes should continue to apply. The individual's work related expenses can be reimbursed on a vouched basis or using Revenue approved Civil Service subsistence rates.

If the business visit is for a limited time, foreign tax issues would not be expected to arise. However, this will depend on the location visited, the length of the trip, the type of activities undertaken while abroad and if costs are recharged to the overseas location. As such, the position should be reviewed regularly.

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However, if an employee spends sufficient time working (from 2017, 30 days) in certain emerging markets such as Brazil, Russia, India, China, South Africa, UAE, Indonesia, Singapore or Japan in a year, they can make a claim on their Irish tax return for a tax relief known as the Foreign Earnings Deduction (FED). More information on FED is available in our FED brochure.

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ii) Short term assignments overseas

Typically a short term assignment lasts for up to 12 months and the assignee remains an Irish resident.

Where an employee is sent overseas on a short term assignment to a country which has a double tax treaty with Ireland, it is probable that they will remain Irish tax resident and the comments set out above will remain relevant. In addition, they may also trigger a tax liability in the overseas location. If the employee is sent to a location which does not have a Double Tax Agreement with Ireland, it is likely that foreign tax issues, including foreign payroll issues, will immediately arise.

iii) Long term assignments

Usually the employee assignment will typically last from 12 months to 3 years and the employee is likely to break Irish residence.

If an individual leaves Ireland to work overseas in circumstances where they are not expected to be tax resident in Ireland for the following year, it is possible for a treatment known as Split Year Treatment to apply. The treatment allows post departure employment income to be excluded from the charge to Irish tax. In such cases, an Irish employer can apply to Revenue for a PAYE Exclusion Order so that post departure earnings can be paid without deduction of tax.

Income tax is also likely to be applicable in the foreign jurisdiction.

iv) Commuter Assignment

An Irish resident individual may qualify for a tax relief from Irish tax known as Cross Border Worker Relief if they meet the following criteria:

- They are employed by a foreign company in a country that Ireland has a Double Taxation Agreement with
- They undertake all of the duties of the employment outside of Ireland
- They commute to work on a daily or weekly basis
- They have held the employment for at least 13 weeks in the year

The relief operates to effectively exclude the foreign earnings from the charge to Irish tax. If the relief is not available, normal Irish tax will apply. The earnings in question are also likely to be taxed in the foreign country where the employment is held. The assignee will also remain an Irish resident in this case.

KPMG Tax Rates Online allows you to compare income tax and social security rates across multiple countries. Please see our website for more information.

v) Permanent transfer

Individuals in this category are those who have transferred from an Irish employment contract to a foreign contract overseas and in doing so have typically broken Irish residency.

Where an individual leaves Ireland mid way through the tax year to take up a foreign employment overseas, they will only be taxable in Ireland on their employment income up to the date of their departure. Foreign taxes are likely to be due from the commencement of the foreign employment.

3. Relocation Expenses

Where an employee relocates overseas, certain costs associated with the move can be reimbursed free of Irish tax on a vouched basis, e.g. legal costs of selling Irish home, furniture removal expenses etc. The foreign tax treatment should also be considered.

This is more likely to be relevant for short term assignees, long term assignees and permanent transfers.

4. Equity Compensation and Share Options

Equity compensation granted to an individual while resident in Ireland may vest or become exercisable whilst resident overseas and a charge to Irish income taxes may still arise.

This is a very complex area and needs careful consideration as both Irish and foreign payroll tax and reporting obligations can arise in the above scenarios.

5. Tax Policies

When it comes to overseas assignments, companies often choose to implement a tax policy aimed at offsetting any adverse economic effects incurred due to taxation issues in the home and/or host country. Companies need to assess what policy is required for their mobile population to ensure that employees are free to perform their duties overseas without worrying about the tax complexities that may arise. The two most common policies are:

i) Tax Equalisation Policies

These are usually implemented for formal assignments, with the aim being to remove tax as a factor where an employee is asked to work overseas. The policy ensures that the employee is delivered the same net pay as they would have received if they had not moved overseas.

ii) Tax Protection Policy

Tax Protection is a policy whereby the employee receives their gross pay and any tax shortfall arising from the assignment – usually assessed once a year – is made good by the employer, with any tax saving being for the account of the employee.

6. Social Security

In general, an individual is liable to social security where they work. However, where an Irish individual is sent to work in certain overseas locations, they can remain within the scope of the Irish PRSI system.

European Union regulations operate to ensure that employees assigned within the EEA area (and Switzerland) can pay Irish PRSI for up to 5 years while working overseas. Additionally, Ireland has a limited number of social security agreements with other

countries such as Australia, Canada, New Zealand and the US which allow employees to also remain within the Irish PRSI system while temporarily working overseas.

Companies should consider the impact of unbudgeted social security costs arising due to employee presence in certain countries with whom Ireland does not have a social security agreement.

7. Corporation Tax

Where an individual is sent to perform duties of their employment overseas, consideration should be given as to whether their activities could create a Permanent Establishment (PE) for the entity in that foreign location.

Effectively, this means that the individual is viewed as creating a taxable corporate presence in the host location. Where a PE is created, it is likely that any profits attributable to that PE will be taxable in that foreign country.

8. VAT

Where an employee is carrying on the activities of the entity's business overseas, it is likely that VAT implications will arise on these cross border transactions in both Ireland and the foreign location.

9. Other Issues

Other issues that are relevant where employees are operating overseas include:

– Medical insurance - an international policy should be considered

– Pension coverage - continued participation in the Irish pension scheme might not make sense from a foreign tax viewpoint. Therefore, a pension holiday, local coverage or a cash allowance in lieu might be appropriate

– Cost of living allowances (COLA) - the cost of living can vary from country to country. A COLA is designed to pay a guaranteed net cash amount to the employee to cover cost of living differentials

– HR policies - It is best that companies expanding into new markets adopt formal global mobility policies that cover the above matters to ensure transparency amongst the internationally mobile population and provide a framework for managing the global mobility process

– Cost projections – to ensure governance and accountability in the assignment process, the projected costs (including taxes due) should be agreed and signed off by the receiving business unit

– Exchange rate volatility – are both the employee and the employer protected in the event of significant currency movements? Contracts of employment and secondment should be reviewed to assess the implications

How can we help?

As a global firm, KPMG understands the issues concerned in operating across borders. Our Global Mobility professionals can advise in relation to all matters relating to your mobile workforce to ensure that your expansion overseas is administratively compliant and as cost effective as possible.

Our Global Mobility team will guide you through the entire process from start to finish, helping you with:

- Immigration
- Social Security
- Tax Compliance
- Assignee Management
- International HR Services
- Payroll Services
- Assignment Policy Design

When you partner with KPMG to deal with your global mobility requirements, you will also receive access to our advanced suite of tools and technologies, including:

- KPMG Link for Assignees
- KPMG Link for Program Managers
- KPMG Travel Tracker

You can find out more about these tools by visiting **kpmg.ie/gms**

To find out more about how our Global Mobility services can help your company, contact Michael Rooney.

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