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Romania – Clarifying Tax Treatment of Secondment Allowances, Visas for PRC Nationals

by KPMG Tax, Bucharest
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flash International Executive Alert

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In this *Flash International Executive Alert* we report on two recent global mobility-related developments that may impact individuals – including those on international assignment – and their employers.

Changes to Income Tax Rules for Secondment/Delegation Allowances

As of June 2013 certain new regulations were introduced in Romanian legislation that affect the tax treatment of “secondment / delegation” allowances. Secondment or delegation allowances are those amounts granted by the employer to the employee to cover assignment-related expenses (i.e., per diem, housing, etc.).

Law no.168/2013¹ clarifies that allowances received by employees of nonresident employers (e.g., a U.K. employer) during their assignment in Romania for business purposes are non-taxable up to the limit set by the government decision pertaining to employees of Romanian public institutions, assigned in the country of residency of the employer (e.g., the U.K.).

Example:

- *An individual is assigned to Romania by his U.K. employer.*
- *Romanian employees of public institutions are entitled to a EUR 35 per day delegation allowance, when assigned to the United Kingdom.*
- *Thus, the delegation allowance received by the assignee from the U.K. is non-taxable up to EUR 35 per day.*

The limit for per diems granted to personnel of Romanian public institutions while on assignment to most European Union (EU) states is EUR 35.

Thus, further to the changes in the law, the secondment / delegation allowance granted for assignments to Romania is non-taxable up to the daily limit used for the public sector (e.g., EUR 35/day for most EU countries).

More Flexible Short-Stay Visa Regime for Chinese Nationals

On 3 April 2013, the Romanian government approved a Memorandum that eases the visa regime for nationals of the People's Republic of China travelling to Romania for business purposes.

- According to the government's press release², this Memorandum is intended to ease the process of granting Romanian short-stay multiple-entry business visas to Chinese nationals travelling to Romania for business purposes. These business visas may

now have a validity period from one to five years, provided that the *bona fide* principle (more on this below) is observed.

- According to available information from the Romanian Ministry of Foreign Affairs – National Visa Centre, the flexible short-stay business visa regime has been operational for Chinese business travelers since 22 April 2013. Certain conditions must be met, including:
 - The visa applicant must file a valid invitation letter from a large or medium-sized taxpayer company in Romania which is listed on the official Web site of the National Agency for Fiscal Administration (Agenția Națională de Administrare Fiscală).
 - The requested validity period for the visa must be the same as the period mentioned in the invitation letter available from the Romanian company.
- Once these criteria are met, the procedure for granting the Romanian short-stay business visa will occur in stages as follows:
 - As a first stage, Chinese business travelers may be granted short-stay business visas with a maximum of six months validity.
 - Subsequently, upon a second visa application request, if the Chinese business traveler demonstrates that he or she has observed the Romanian visa regime and domestic legislation, the traveler may be granted a short-stay multiple-entry business visa valid for up to one year.
 - Upon a third visa application request, a Chinese business traveler, who demonstrates that he or she has complied with Romania's visa regime and domestic legislation, may be granted a short-stay multiple-entry business visa valid for up to five years.

To support the implementation of this Memorandum, a list of Romanian companies that are authorized to issue invitations under this process as well as a list of Chinese companies to which the Romanian companies may issue invitations are available at the Romanian embassy in Beijing. These lists are checked by consular staff when a business visa is requested.

Under the previous rules, the maximum validity period for short-stay business visas for Chinese travelers to Romania was six months regardless of the number of visa requests.

Footnotes:

1 Law no.168/2013 to approve Government Ordinance no. 8/2013 on amendments to the Fiscal Code and regulations of some fiscal-financial measures ("the Ordinance" or "GO 8/2013") was published in *Monitorul Oficial* (Official Gazette) no. 310 of 29 May 2013. For the published laws and other statutory instruments (in Romanian), see the Web site for the *Monitorul Oficial* at: <http://www.monitoruloficial.ro/>.

2 Press release published on the Romanian government official Web site on 3.04.2013: http://www.gov.ro/informatie-de-presa-privind-actele-normative-care-ar-putea-fi-incluse-pe-agenda-sedintei-guvernului-romaniei-din-3-aprilie-ora-11-00__l1a119702.html.

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For further information or assistance, please contact your local IES professional or Madalina Racovitan (tel. +40 372 377 782 or e-mail: mracovitan@kpmg.com), IES country leader with the KPMG International member firm in Romania.

IES/People Services Video Now Available to View: Global Assignment Policies and Practices ("GAPP") Survey Report for 2013

The Global Assignment Policies and Practices ("GAPP") survey report for 2013 was recently released by KPMG's International Executive Services practice. The report on the GAPP survey – now in its 15th year – allows program managers to benchmark their organization's global mobility program in relation to other survey participants, which in this year's report includes more than 600 organizations.

We invite you to watch this short video which imparts some fascinating facts about organizations and their international assignment programs (current state and aspirations) revealed by this year's survey.

<http://www.kpmginstitutes.com/taxwatch/insights/2013/2013-gaap.aspx>

And to access a soft copy of the survey report for 2013, click [here](#).

The information contained in this newsletter was submitted by the KPMG International member firm in Romania. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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