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Poland – Tax and Social Security Totalization Treaty Developments

by KPMG, Warsaw (KPMG in Poland is a KPMG International member firm)

In this *Flash International Executive Alert* we highlight two recent developments related to Poland's tax system and international social security regime. Poland has a new social security agreement with Moldova helping to mitigate double taxation and totalize benefits for Poland-Moldova cross-border workers. Also, the government's recently-announced tax reform proposals may impact employee's company car benefits as the method for calculating the taxable benefit related to the personal use of company cars will be clarified.

Why This Matters

Company Car Benefit

For many individuals the provision of a company car while employed in Poland is an important and valuable perquisite; however, there are tax implications, as any private use of the vehicle by the employee is a taxable benefit. Up to now, in the absence of specific provisions in the tax legislation, employers have used various methods of calculating the taxable value of this benefit. The proposal to establish regulations to standardize the tax treatment of the benefit should generally be welcomed as it should mitigate the current uncertainty in this area and help reduce the tax risk for employers.

Social Security Agreement with Moldova

The social security agreement between Poland and Moldova helps to ensure that workers will not pay double social security taxes if they are on international assignment working in the one country or the other. This can help to mitigate the costs of international assignments.

The social security agreement also provides for the coordination of benefit payments by Poland and Moldova for individuals who have paid social security taxes in both countries during their careers.

Tax Reform Proposals and the Company Car Benefit

Poland's Minister of Finance has recently announced a wide-ranging package of tax reforms with the aim of combating tax evasion, reducing the level of taxpayer arrears, and increasing the efficiency of the tax administration. Of note also are changes to the taxation of company cars and the implementation of controlled foreign company legislation. The proposals, furthermore, include significant plans for computerization of Poland's tax administration and the centralization of tax records.

The proposal that will primarily concern individuals – including those on international assignment – and their employers deals with the introduction of regulations on the taxation of company cars used for private purposes. The government plans to bring in a flat rate taxable value of the benefit. Up to now, the private use of company-provided cars is considered a taxable benefit; however, the tax regulations do not specify how the taxable value of this benefit should be calculated. This has resulted in uncertainty and a number of different approaches being used by employers.

Other Measures Impacting Individuals Contained in the Proposals

- Measures to reduce tax evasion and arrears – The proposals include the creation of a central register of tax debtors, simplification of the procedure of recovery of tax debts, and creation of a system of tracking the bank accounts of tax debtors.
- Increased use of electronic communications between taxpayers and the tax administration – An online taxpayer portal is planned to be introduced where taxpayers can complete tax returns and obtain up-to-date information about their tax records.
- Amendments to the terms of double taxation treaties with countries including Singapore, Slovakia, and the United Arab Emirates, and new agreements for the exchange of tax information between Poland and certain low-tax jurisdictions are planned.

KPMG Note

It is important to note that the planned reforms are only proposals at this time and may or may not ultimately be introduced as tax legislation. Therefore, the plan to change the taxation of individuals' personal use of company-provided cars is merely a proposal at this point. However, should the proposals be legislated, the method for calculating the benefit should help bring certainty around the previously unclear calculation of this employee benefit. In addition, the proposals underscore the government's serious focus on the problems of tax evasion and arrears.

Social Security Agreement with Moldova

A new social security agreement between Poland and Moldova has now been ratified by Poland.[2] Previously no social security treaty existed between these two countries. Once both countries have ratified the treaty and exchanged information about this by means of diplomatic notes, the treaty will come into force.

This raises to seven the number of social security agreements Poland has in place with other countries.

This treaty will be of particular interest to individuals from Poland carrying out work in Moldova or vice versa. It is also relevant for certain individuals who are entitled to receive social security benefits from one country, but reside in the other country, for example persons receiving retirement benefits.

Important Elements of the Social Security Agreement

A key element of this treaty is the introduction of provisions governing the applicable social security regime for individuals assigned from Poland or Moldova to the other country, or that are employed or self-employed in one country but reside in the other.

These rules are summarized below:

- An individual employed in one of the contracting countries, as a rule, will be subject to social security in that country, even if he resides in the other country or his employer is located there.
- An exception is for workers posted from one country to the other, where under the treaty they may remain in their home country system for up to two years, with a potential extension for another three years.
- Self-employed individuals will be subject to the social security system of the country where they conduct their activity, even if they reside in the other country.
- Civil servants will be subject to the social security regime of the country which employs them.
- Individuals employed in international transport and mariners are subject to specific rules.

KPMG Note

Business between Poland and Moldova is growing[3] and the new treaty should be welcomed by companies seconding employees between the two countries. The new treaty will effectively eliminate situations where a double social security liability may have arisen in the past.

The new treaty includes a guarantee of equal treatment with regard to social security for citizens of both countries, as well as provisions allowing the aggregation of insurance periods in each country when determining each individual's eligibility for social benefits.

Moreover, provisions in the social security agreement regarding the export of benefits will facilitate payment of benefits from one country to individuals in the other country, for example the payment of retirement pensions. This will be of particular interest to individuals who have accrued eligibility for benefits in one country (e.g., through a period spent working there), but have returned to their home country. For example, a Moldovan individual who has accrued a right to a retirement pension from the Polish social security authority during a period of time working in Poland should find it easier to receive payment of his pension if he chooses to return to Moldova for retirement.

Footnotes:

1 For further details of the proposals (in Polish), see: www.**mf**.gov.pl/documents/764034/.../Pakiet+dzialan+**podatkowych**.doc .

2 For the law ratifying the treaty, see (in Polish): http://isap.sejm.gov.pl/DetailsServlet?id=WDU20140000583 .

3 For more information, see (in Polish): http://www.mg.gov.pl/Wspolpraca+z+zagranica/Wspolpraca+gospodarcza+Polski+z+krajami+wschodnimi+i+pozaeuropejskimi/Moldowa.htm .

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Save the Date! 6 – 8 October 2014

International Executive Services: Global Mobility Forum 2014

LINKing Global Mobility and Talent Management

Please 'Save the Date' in your calendar today and join us in Chicago, Illinois, USA, at KPMG's International Executive Services: Global Mobility Forum 2014. We have invited corporate professionals – with experiences ranging from international human resources and tax, to immigration and employment law – to join together and discuss new strategies for integrating global mobility and talent management. You will also have the opportunity to discuss these themes in a series of interactive workshops along with sharing ideas with colleagues and KPMG professionals from around the world.

We have a fantastic line-up and look forward to seeing you in Chicago on 6-8 October 2014.

For more information, go to:
https://www.globaltaxevent.com/2014iesforum/account/login/?ReturnUrl=%2F2014iesforum%2F

And feel free to contact your local KPMG IES or People Services professional for additional details.

The information contained in this newsletter was submitted by the KPMG International member firm in Poland. 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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