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United Kingdom – New Payroll, Payment Procedures for Short-Term Business Visitors

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In light of recent correspondence and discussions between the U.K.'s HM Revenue and Customs (HMRC) and professional bodies, it has been made clear that the U.K. tax authority is introducing a new procedure allowing employers with short-term business visitors to the U.K. who do not qualify for exemption from U.K. tax under the terms of a double taxation treaty to make an annual report and payment of the U.K. tax due. The final terms of the agreement are to be published shortly.

Why This Matters

The new procedures will significantly reduce the reporting and payment requirements for those employers with short-term business visitors with 30 or fewer U.K. work-days and who do not qualify for treaty exemption. Tax returns and forms P11Ds will not be required when the agreement applies. The agreement will apply for the year ending 5 April 2016.

Current Position

Where an individual who makes short-term business visits to the U.K. qualifies for exemption from U.K. tax under the terms of a U.K. double taxation agreement, his or her employer can enter into an agreement with HMRC under which, provided certain conditions are met, the employer does not need to withhold U.K. income tax at source under the U.K.'s Pay As You Earn (PAYE) regulations. Such agreements, generally known as 'Appendix 4 agreements', avoid the need for an up-front tax deduction, followed by a claim for double taxation relief under the terms of the relevant treaty.[1]

Where treaty exemption does not apply, or for short-term business visitors from countries where the U.K. has no relevant double taxation agreement, a payroll withholding obligation also applies. In particular, a U.K. 'host employer' must deduct U.K. income tax at source and pay it to HMRC each month. Under the U.K.'s Real Time Information (RTI) reporting system, any such tax deducted must also be reported to HMRC on or before the time of payment of the earnings to the employee.

Even where there is no U.K.-host employer, the decision may also be taken to withhold in order to remove the filing and payment requirements from the employee.

New Agreement

Employers with qualifying short-term business visitors for whom existing Appendix 4 agreements are not available will now be able to enter into an agreement with HMRC under which all but the last payment of earnings made in each fiscal year can be made without tax being paid to HMRC. The employer must then pay the total U.K. tax due for the year to HMRC by 22 April following the end of the tax year. Rather than having to report on or before the time of payment, the employer will only be required to make a single electronic return under RTI, which must be sent to HMRC by the end of the tax year.

Any benefits-in-kind can also be included in the arrangement, removing the need for the employer to report these to HMRC separately.

KPMG Note

Employers should note that there are important differences between this 30 U.K. work-day period and the qualifying period for existing Appendix 4 agreements. Subject to certain conditions being met, these can be available where short-term business visitors spend a longer period in the U.K., i.e., up to 183 days a year – but the 183 limit includes any day on which time is spent in the U.K., not just U.K. work-days. Employers entering into the new agreements will need to familiarize themselves with the relevant definitions and foster the correct and accurate tracking of U.K. work-days.

In many cases, U.K. social security will not be due because the employee will be exempt from U.K. social security for the first 52 weeks. Employers will need to establish appropriate processes so that the employee meets the relevant conditions. The agreement will not apply where an NIC liability arises. Currently it is not intended that the agreement can cover directors; this is, however, subject to ongoing discussion.

Next Steps

Any employers with short-term business visitors to the U.K. from countries without a treaty with the U.K. should discuss their position with their usual tax adviser and obtain HMRC's permission to start operating under the terms of the new agreement when it is published in a few weeks' time.

Footnote:

1 For related coverage, see *Flash International Executive Alert* 2014-070, 25 July 2014.

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