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GMS Flash Alert

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United States - Social Security Agreement with Brazil Transmitted to Congress

The Social Security Totalization Agreement (SSTA) between the United States and Brazil was transmitted to the United States Congress on December 8, 2016, by then U.S. President Barack Obama. The SSTA was signed by the two countries on June 30, 2015.[1] With this step, the Agreement moves closer to entry into force.

WHY THIS MATTERS

SSTAs are bilateral agreements that coordinate social security coverage and benefits between two countries, preventing double tax, and effecting continuity of benefits where social security tax was paid in both countries. As Brazil is the 12th largest goods trading partner of the United States[2], this SSTA may ease the tax burden of the large volume of workers traveling between the two countries, who may currently be subject to the social security taxes of both countries. This could help to lower the international assignment costs borne by their employers.

At the time of the signing of the SSTA, the U.S. government predicted that the Agreement would save U.S. and Brazilian companies over $900 million in the first six years that it is in effect.[3]

Background

In many scenarios, a worker sent from the United States to work in Brazil (or vice versa) will be subject to the social security taxes of both countries, and there is no credit mechanism to alleviate this double tax. In addition, the worker may not contribute to the social security system in the host country long enough to accrue a retirement benefit.

SSTAs, including this one between the United States and Brazil, address both these inequities. First, they stipulate that a worker will pay social security tax in only one of the two countries. The general rule under the U.S.-Brazil SSTA is that a worker will be subject to the tax only of the country where he provides services. Under the "detached worker" exception, if a worker is assigned by his employer to work in the host country for no more than five years, he will be exempt from the host country tax and continue to be subject to the home country tax. The employer of such a "detached worker" should apply for a Certificate of Coverage from the home country social security authorities to validate the exemption from the host country tax. In some cases, extensions of the five-year period are available. Also, under the Agreement, self-employed workers are subject to social security tax only in the country in which they are resident.

In addition, by allowing a worker to remain covered by his home country social security tax, SSTAs help to prevent service breaks that may have an impact on eligibility for future benefits, or on the amount of such benefits. However, where a worker has contributed to the social security systems of both countries, they allow for provision of a partial benefit where a worker has not contributed to the system of one country long enough to accrue a benefit there, by taking into account the amount of time the worker contributed to the system of the other country.

In Brief: What the U.S.-Brazil SSTA Covers

The U.S.-Brazil SSTA will cover the old age, survivor's, and disability insurance systems of both countries. It will NOT apply to the Brazil *Fundo de Garantia do Tempo e Serviço*, also known as FGTS, which is the Severance Indemnity Fund for employees. The Agreement contains a special provision that allows that workers who are already present in the host country to be eligible for a Certificate of Coverage of up to five years beginning on the date the SSTA enters into force.

U.S. SSTA Network and Next Steps for U.S.-Brazil SSTA

Currently, the United States has SSTAs in force with 26 countries. In addition to Brazil, an agreement with Iceland has also been signed and is pending approval (for prior coverage, see GMS *Flash Alert* 2016-124, November 3, 2016). The U.S.-Brazil SSTA will enter into force on the first day of the month following 90 days after the two countries have notified each other that the Agreement has been approved in each country. The SSTA has been submitted to the Brazilian Congress but has not yet been ratified. The U.S. Congress is deemed to approve the SSTA if it has not acted to block it within 60 session days of having received it from the president. If approval and notification proceeds in a timely fashion, the U.S.-Brazil SSTA may enter into force in the second half of 2017.

The KPMG International member firm in the United States will continue to monitor the Agreement's progress and will endeavor to keep readers informed of any important developments when they occur.

FOOTNOTES:

1 See the announcement at: https://www.whitehouse.gov/the-press-office/2016/12/08/message-congress-brazil-social-security-agreement. Also, see GMS *Flash Alert* 2015-084 (July 13, 2015) for prior coverage.

2 See: https://ustr.gov/countries-regions/americas/brazil.

3 See: https://www.whitehouse.gov/the-press-office/2015/06/30/fact-sheet-united-states-and-brazil-mature-and-multi-faceted-partnership.

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

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