

# GMS Flash Alert

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## United Kingdom – Consultation on Short-Term Business Visitors from Overseas Branches

On 14 May 2018, HM Revenue & Customs (“HMRC”) published a consultation on simplifying the tax and administrative treatment of short-term business visitors in the U.K. from overseas branches.<sup>1</sup>

The government would like to hear views of companies, travellers, and tax professionals alike. The consultation is open until 6 August 2018.

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### WHY THIS MATTERS

This undertaking aims to reduce the administrative burden and costs for employers who have “EP Appendix 4” Short Term Business Visitors agreements (“STBVA”) in the U.K. from overseas branches.

The government has an interest in making the U.K. a more attractive place to headquarter and do business, and this consultation intends to contribute to this goal.

This presents an opportunity for employers, short-term business visitors, and professional advisers to provide feedback in light of their experiences and preferences.

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### Background

When a short-term business visitor (“STBV”) comes to work in the U.K., the company has a requirement to report his earnings through the U.K. payroll and withhold U.K. taxes via Pay-As-You-Earn (“PAYE”) on a real-time basis, regardless of the number of days he works in the U.K. and whether his earnings can ultimately be exempted from U.K. taxation under a double taxation treaty.

To reduce the administrative requirements, HMRC allows companies to make an application for an STBVA. This relaxes the requirement for companies to report the earnings and operate PAYE withholding tax for individuals who are exempt from U.K. taxation under the terms of the relevant double taxation treaty.

However, these arrangements do not cover individuals coming to work in the U.K. from an overseas branch of a U.K. company, as HMRC takes the position that the conditions for treaty exemption are not met. This is because the overseas branch is not a separate legal entity to the U.K. company, and so, the U.K. company remains the employer.

In cases where an STBVA is not appropriate, a company can apply to operate a special annual PAYE scheme, which means that the company can make one payroll report per year shortly after the end of the tax year, rather than make payroll reports on a monthly real-time basis. This arrangement currently applies to visitors from overseas branches or from countries where there is no double taxation treaty with the United Kingdom. It only applies to individuals who have 30 or less U.K. work-days during the U.K. tax year.

## More Details

To reduce the administrative burden for employers who have STBVs in the U.K. from overseas branches, HMRC has proposed two potential policy options:

1. Extending the special annual PAYE scheme U.K. work-day rule from 30 days to 60 days.
2. A new tax exemption for STBVs from overseas branches.

Under the first option, HMRC proposes to extend the limit for the annual PAYE scheme from 30 days to 60 days. This would impact both STBVs from U.K. branches, as well as STBVs from countries that do not currently have a double taxation agreement in force with the U.K. (e.g., Brazil).

The second option would introduce a new and specific tax exemption for STBVs from overseas branches. The stated aim of this option is to align the treatment of STBVs from overseas branches and from overseas subsidiaries. It would likely include a PAYE relaxation and reporting requirements similar to the current STBVA requirements.

HMRC has included a list of questions in the consultation document to foster an understanding of employers' views on the current arrangements for STBVs, as well as views on the two proposed options and any possible alternatives.

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## KPMG LLP (U.K.) NOTE

This is a very welcome consultation and is likely to generate significant interest from U.K. employers with overseas branches. The current annual payroll scheme was an easement that was introduced in 2015 following recommendations from the Office of Tax Simplification. While that in itself was welcome, the very tight deadline for the payment of the PAYE and the associated difficulties that can arise in obtaining double taxation relief overseas are two areas where we see changes could be helpful in terms of easing the costs and administrative burden for employers.

We would welcome your feedback to help us shape our response; so please do share your thoughts in advance of 6 August 2018, with any of the contacts below or your regular KPMG contact.

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## FOOTNOTE:

1 To see HM Revenue & Customs' "Tax and administrative treatment of short term business visitors from overseas branches," Consultation document (14 May 2018), click [here](#).

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in the United Kingdom:



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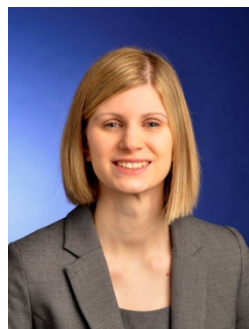
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