

GMS Flash Alert



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Finland - Government Makes Plans to Introduce 'Economic Employer' Concept

Finland's government published on 1 July 2021, a draft of the proposal on the concept of economic employer, which would expand Finland's right to tax income arising when related work is regarded to be exercised for the benefit of a Finnish economic employer.¹

Many countries have implemented the economic employer approach during the past several years. The latest country to implement the concept was Sweden, where it came into force in the beginning of 2021.²

WHY THIS MATTERS

If enacted, the amendments would lead to a significant expansion of foreign employees' liability to pay taxes in Finland. The approach would expand the determination of who the employer is from the current payor of an employee's salary to other factors, and therefore, to help determine whether the income is taxable in Finland. According to the draft amendments, one of the main factors for determining the economic employer is which company is the beneficiary of the employee's work. This will affect, especially, foreign employees who are temporarily working in Finland and their Finnish and foreign employer companies.

If enacted, the proposed amendments would come into force in the beginning of 2022 – therefore, it is recommended that organisations consider their current situations in respect of their Finland inbound and outbound employees and pay attention to the implementation schedule which would be relatively quick if the new rules are enacted.

Background

The current position (before the proposed amendments) is that Finland has a right to tax the income paid by the foreign

employer in accordance with the tax treaties to which Finland is a party only if:

- the employee stays in Finland for over 183 days during the calendar year or 12-month period depending on the tax treaty;
- the foreign employer has a permanent establishment in Finland;
- and in addition for some countries in cases of the hiring out of labour.

The amendments would concern situations where the employee is formally employed by a foreign entity and remuneration is paid by the foreign entity. Under current law, if none of the conditions stated above is fulfilled, employees would not be liable to tax in Finland. However, the economic employer proposal would mean that the employee could be considered liable to tax in Finland if that employee's economic employer is regarded to be in Finland.

Draft of the Proposal

The proposal is strongly influenced by the OECD's Commentary. The economic employer is defined as a company that has control and management of the employee's work regardless of who the formal employer of the employee is, or who is paying the employee's salary.

The economic employer can be established inside the corporate group of companies or between two independent companies. In terms of the corporate group assessment, the focus is on how the work conducted might be linked to the functions of the receiving entity in Finland. In addition, the basis of charging inside the group of companies and the authority to instruct the employee regarding the manner of work are relevant factors in the assessment. Mainly the same criteria are used when assessing the establishment of economic employer between two independent companies.

KPMG NOTE

A very important detail of the proposal worth noting is that there is no proposed minimum time limit for the tax liability to arise in the above-described situations. Therefore, economic employer can be established even from short-term work in Finland. For example, one day of work in theory could cause reporting obligations in Finland.

If the amendments are enacted, in cases where the economic employer is deemed to be in Finland, this will cause reporting requirements for the formal (foreign) employer as well as the economic (Finnish) employer.

Especially in cases where the employee stays in Finland continuously for more than six months, the employer would have an obligation to report the employee's entire salary to Finnish tax authorities. When a continuous stay lasts less than six months, the employer is obliged to report only the salary tied to the work conducted in Finland.

Reporting Obligation

The economic employer, i.e., the Finnish entity using the foreign labour, has a reporting obligation regarding information about the formal employer and the length of the employee's work in Finland. Reporting obligations will also arise for the foreign legal employer and the employee needs to personally apply for tax pre-payments.

Alternatively, the amendment would give a foreign employer a possibility to register voluntarily as an employer in Finland to remit taxes. Note that this registration would be voluntary in cases where the foreign company has not established permanent establishment in Finland.

KPMG NOTE

It should be noted that at this point the government's proposal is only a draft. We, at the KPMG International member firm in Finland, will endeavour to provide updates on any changes to the current situation.

The proposal is intended to come into force in the beginning of 2022. It is essential that employers be mindful of this potential change, and review the circumstances and cases where a foreign company sends short-term assignees or business travellers into Finland and assess whether these could lead to taxation or reporting based on the economic employer rules. The review should encompass international assignments arranged inside of a corporate group of companies as well as various situations where services are sold to an independent company in Finland.

FOOTNOTES:

1 *Hallituksen esitys eduskunnalle laeiksi tuloverolain ja eräiden muiden lakien muuttamisesta taloudellisen työnantaja käsitteen käyttöönottamiseksi, Luonnos 1.7.2021.*

2 On Sweden's move to introduce the economic employer concept, see:

- [GMS Flash Alert 2020-457](#) (13 November 2020).
- See this KPMG video, "[Economic Employer: The 'Game Changer' in Sweden's Tax World](#)," with Scott Shaughnessy (GMS-Washington National Tax) and Petter Frödeberg (GMS-Sweden), which discusses the introduction of the economic employer concept in Sweden.

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