

# GMS Flash Alert

2021-305 | December 10, 2021



## Finland - Delay on Introduction of 'Economic Employer'

The Finnish government's proposal on introducing the concept of economic employer has been delayed until the beginning of 2023.<sup>1</sup> The draft legislation, which was initially planned to enter into force on 1 January 2022, would expand Finland's right to tax income arising when related work is regarded as being exercised for the benefit of a Finnish economic employer.

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.<sup>2</sup>

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### WHY THIS MATTERS

If enacted, the proposal 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 which would be considered to determine whether the income is taxable in Finland. According to the draft currently under consideration, 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 proposal would come into force in the beginning of 2023; but there is much debate and contention around several aspects of the proposal, and it remains to be seen exactly what the final legislation will look like.

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### Background

For information on the existing legal situation in respect of economic employer in Finland and the proposals, see [GMS Flash Alert 2021-212](#), 5 August 2021.

## Points of Concern Raised about Aspects of the Proposal

The government's proposal, which was initially published on 1 July 2021, has been the subject of critical feedback from legal experts as well as various interest groups.<sup>3</sup>

One of the most common points of criticism was the government's timetable for introducing the law, which has since been addressed by the government in terms of its having delayed the proposed entry into force until 2023, rather than the beginning of 2022 (the original timeframe).

However, there have been concerns raised about aspects of the proposal's content and purpose.

A significant cause of concern is that there is no proposed minimum time limit for the tax liability to arise. Therefore, an 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. This differs from the economic employer legislation in many other countries such as Sweden and Germany, where a minimum time limit is included in the legislation.

Other points of scepticism of the draft legislation include:

- The estimated fiscal benefit to the government is disproportionately small in comparison to increased governance costs for employers;
- Some legal scholars have argued that in the current draft law there are several legal technicalities, such as cross-referencing between different laws, which are problematic or erroneous;<sup>4</sup>
- The economic employer rules should not apply to foreign executives and key employees in affiliated groups of companies, since these situations would be very complicated to assess in practice based on the current draft law.

It remains to be seen whether any of the above points of criticisms will be addressed in future drafts of the law.

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### KPMG NOTE

It should be noted that at this stage 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 during 2022.

While the proposal is currently intended to come into force in the beginning of 2023 – providing affected multinationals additional time to assess their situations and prepare – it is recommended that employers take the time now to consult with their professional tax advisers to review the circumstances under which their globally-mobile employees could lead to taxation or reporting based on the economic employer rules.

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## FOOTNOTES:

1 [Hallituksen esitys tuloverolain ja eräiden muiden lakien muuttamisesta taloudellisen työnantajan käsitteen käyttöönottamiseksi](#), VM070:00/2020 on the *Finansministeriet* (Finance Ministry) website.

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

- [GMS Flash Alert 2020-457](#) (13 November 2020).
- 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), discusses the introduction of the economic employer concept in Sweden.

3 [Hallituksen esitys tuloverolain ja eräiden muiden lakien muuttamisesta taloudellisen työnantajan käsitteen käyttöönottamiseksi - Valtiovarainministeriö \(vm.fi\)](#), see section "Lausunnot" on the *Finansministeriet* (Finance Ministry) website.

4 See for example comments from:

- Professori Juha Lindgrenin lausunto (13 August 2021) (in Finnish): [LAUSUNTO\\_20210816072007.PDF \(hankeikkuna.fi\)](#). *Please note that by clicking on this link are leaving the KPMG website for an external site that KPMG is not affiliated with nor is KPMG endorsing its content. Use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.*
- Professori Marianne Malmgrenin lausunto (13 August 2021) (in Finnish): [LAUSUNTO\\_20210816062158.PDF \(hankeikkuna.fi\)](#). *Please note that by clicking on this link are leaving the KPMG website for an external site that KPMG is not affiliated with nor is KPMG endorsing its content. Use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.*

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