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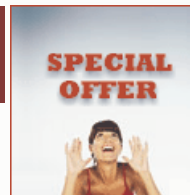
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NEWS

TALKING TAX: Schemes in cross-border employment

Dec 06, 2006
By Mantas Petkevicius

Foreign investment and accession to the EU have given rise to a relatively new phenomenon for local authorities and businesses: cross-border employment and employee-movement. This raises a number of tax issues, though this article will touch upon social security.

Although community legislation in the field of social security, an essential instrument aimed to facilitate the free movement of workers inside the EU, has existed and evolved for over 30 years, these rules are rather recent for new EU members. Pursuant to the general principle of community law, an employee should be subject to a social security scheme of only one member state at a time, regardless of the number of states in which he/she works. As a rule, workers are generally subject to the legislation where they work, irrespective of place of residence or employer's location.

Companies of other member states may engage in activities in Lithuania without establishing a corporation. As is often the case, this may lead to the need to employ local personnel. Pursuant to Lithuanian laws, the foreign company employing Lithuanian residents for work in the Baltics state must register as a taxpayer in Lithuania and pay social insurance contributions. Similar rules apply also in Estonia and Latvia.

Another possible scenario is that investment in local businesses is followed by movement of foreign employees, usually temporary, to the respective state. Application of the general rule described above would lead to changes of applicable legislation and, accordingly, of the social security scheme for the period of employment abroad. This obviously would not be to the employee's benefit.

Understanding of the rules may allow the business to facilitate cross-border employment and movement of employees as well as enable employees to benefit from the application of one social security scheme.

However, special arrangements established by the community for employees temporarily posted by their employer to work in another member state allow the employees to remain subject to the social security scheme of their "home" country. Provided that direct relationship between the posting undertaking and the posted worker are maintained and the anticipated duration of the posting does not exceed 12 months, the worker may remain insured under his/her "home" state's social security scheme.

Finally, it should be stressed that community provisions applying to social security matters do not apply to taxation issues, such as the above mentioned individual income taxation, that are governed on the basis of bilateral agreements. Moreover, it should be noted that it may occur that a person is subject to a social security scheme of one country but has to pay income taxes in another country.

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