Seconding UK staff overseas

Presented by Helen Cowley, Director of Tax, Cassons

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Introduction

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What is overseas secondment?

Definition: The *temporary* transfer of an employee to another position or employment.

Where?

- the business' overseas operation
- to a customer
- to a supplier
- to a distributor

Why?

- market research/ someone "on the ground"
- training/ specialist advice/ experience

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Overseas secondment

Stage 1
Preparation

Before the employee is seconded

Stage 2
On secondment

Whilst the employee is on secondment

Stage 3
Post-secondment

After the employee has returned

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Overseas secondment

Stage 1
Preparation

- Visas/ work permits, medical care, travel arrangements
- Contractual factors and terms
  - remuneration & allowances e.g. moving /cost of living
  - length of contract
  - holidays
- Tax free/ tax deductible allowances
- Tax compliance

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Where is tax paid?

- It depends...

Where the employee is tax resident

AND

Where the employee's duties are carried out

- Double tax - treaties
- Cash flow disadvantages - tax relief claimed through employee's tax return

e.g. An employee is seconded to the US for 4 months – they'll pay both UK tax and US tax on that income.

Overseas secondment

Stage 2
On secondment

- Professional support (accountant / tax adviser) in the host country to help with the following:
  - personal tax returns
  - payroll reporting
  - tax equalisation policy

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Case study - Portugal

- UK manufacturing firm opened a plant in Portugal – engineer is seconded there to train local staff
- 18 month secondment from Jan 16 - July 17
- Non resident in the UK
- No work in the UK for the whole tax period
  - resident in... **Portugal**
  - carrying out duties in... **Portugal**
  - therefore taxed in... **Portugal**

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Tax equalisation

Portuguese tax rate is (up to) 48%

Principle: Employee should be no better or no worse off

- Calculate 'hypothetical tax' (UK equivalent) due
- Calculate actual Portuguese tax due

- The hypothetical tax is deducted from employee's pay
- The Portuguese tax is paid to the Portuguese tax authorities
- The difference will be borne by the employer

Generally: Tax equalisation is more expensive for the employer

Social security contributions

Country	Rate
UK	13.8%
Portugal	23.75%

EU law states that it will only be paid in one country

- Which is normally where the duties are carried out
- But, for secondments of less than 2 years, continue to follow the rules of the home country i.e. UK National Insurance contributions

Non-EEA countries: “Reciprocal agreement” – pay UK NI

Overseas secondment

Stage 3
Post-secondment

- Deregistration
  - payroll
  - employee tax records
- Post-secondment remuneration
- Post-secondment tax liabilities

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Permanent establishment

"Permanent establishment is a fixed place where you carry out your business or part of your business."

- Register for tax in the jurisdiction
- Corporation tax liability
- Overseas accounts

Potential issue: If an employee has the authority to ***conclude contracts*** on behalf of the business and habitually does so then the business will have a PE.

Common misconceptions

1. "183 day rule" – if an individual spends less than 183 days in a country then they won't be for liable tax there.

   FALSE

2. "No need to worry about UK taxes and National Insurance contributions if you're paying tax overseas."

   FALSE

3. "Any income tax matters should be left to the employee."

   FALSE

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Are there any questions?

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