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## CLIENT INFORMATION

***Czech Republic***

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# Cross-border services and secondment

*Are you considering a short-term project abroad or a long-term expansion of your business abroad? Here you will find a basic overview of the tax and labour law implications.*

### **Income tax**

Generally, the profits of a company are subject to income tax in the country of residence. However, if you are also active abroad, you may be subject to income tax abroad.

This is generally the case if you have an office, workshop or other permanent establishment abroad, carry out a construction and assembly project with a duration of (generally) more than 12 months, provide services for (generally) more than 6 months or conduct business through a dependent agent. According to tax law, you then have a "permanent establishment" abroad, whereby the profits attributable to the permanent establishment are taxed abroad.

### **Wage tax**

Then you should consider the taxation of the employees you second abroad for your project. Generally, the salaries of employees are taxed in the country in which they are resident for tax purposes (usually the Czech Republic in the case of Czech employees).

*When is the remuneration of seconded employees taxed abroad?*

If the employee is involved in the activities of your foreign "permanent establishment", his or her remuneration is subject to taxation abroad from the first day of the secondment.

If you do not have a permanent establishment abroad (e.g. for a construction and assembly project with a duration of less than 12 months), the remuneration of the seconded employee is subject to foreign tax if the employee's presence abroad exceeds 183 days.

## Social security

Social and health insurance for employees posted to the EU is based on the "single country of insurance" rule, i.e. social and health insurance is only paid in one country - usually the country of employment - for the employee's entire period of employment. However, if an employee is seconded to another EU member state for a period of (maximum) 24 months, they can continue to be insured in their home country. You must apply to the Czech social security authority for an A1 form for the posted employee.

There are international agreements on social and health insurance for third countries.

## Value added tax

The provision of services abroad may result in the obligation to register for VAT abroad. This situation is frequently found with companies that carry out construction activities for non-entrepreneurs.

## Labour law

In addition to the tax obligations, you should also keep an eye on labour law obligations.

The employer is obliged to grant posted employees certain working conditions that apply abroad if these are more favourable for the employee. These include maximum working hours, minimum rest periods, holiday entitlements, remuneration, overtime and bonuses.

Usually, the employer has to register the secondment of its employees with the competent foreign authorities, stating their personal details, before the secondment commences.

## Other regulations

In the case of regulated activities, it is often necessary to register the activity prior to commencement and to prove the company's qualifications to the competent foreign authority. In the construction industry, the posting company may also have other obligations such as holiday fund, liability insurance, etc.

## Labour leasing

The employee leasing abroad has completely different consequences (tax, registration, commercial and labour law) than those mentioned above for secondment.



The characteristic features of employee leasing are

- the employee is integrated into the company of the foreign hirer,
- the employee follows the instructions of the hirer and is subject to the professional supervision of the hirer,
- the employee works mainly with the hirer's tools and materials,
- the hiring company is not responsible for the result of the employee's work.

The topic of cross-border service provision (or expansion abroad) is broad and offers room for optimisation in many cases.

If you have been operating abroad for some time, it may already be necessary to set up a foreign branch or subsidiary to which you can also send your employees. We recommend that you deal with all aspects of your cross-border activities at an early stage.

**Our experienced team is at your disposal.**

If you are interested in this topic, you can learn more about it at a series of lectures in Czech in April, which we have organised for you in cooperation with the Regional Chamber of Commerce in Brno:

**16 April 2024** (BVV, Brno) - [Cross-border business in Austria](#)

**23 April 2024** (BVV, Brno) - [Posting of workers within the EU](#)

If you are interested in a similar online seminar in English, please contact us.

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