

Secondment of an Employee from an Overseas Company to the UK

Definition

This is where an employee of an overseas company is transferred from his place of employment outside the UK to a location inside the UK.

Who it can affect

Employees of an overseas company who are transferred to the UK for a temporary period.

Temporary Period

This is where the assignment is for a period not exceeding two years.

Period Extension

If the assignment is for a period longer than two years the concessions will no longer apply.

Concessions

The employee who is transferred to the UK will become subject to income tax in the UK. The employee however will be able to offset income tax incurred in the UK against local income tax incurred in the country of permanent residence. The employee will therefore not suffer a double tax charge.

Whilst on secondment from an overseas company an employee will be entitled to have accommodation and travel backwards and forwards to his/her country of origin paid for, to the extent that these costs are of a reasonable magnitude, without incurring income tax on these benefits.

To the extent that the employee is accompanied by his/her partner and children the Revenue have the right to restrict the relief from tax to that portion of the cost of accommodation which exceeds that of providing for a single person. Likewise, relief from tax on travel will not extend to the employee's family.

Conditions

The employee must remain on his/her existing employment contract entered into in his/her home country. There should be **no** transfer to a new contract in the UK with the local branch or subsidiary, otherwise the concessions will no longer apply.

National Insurance

National Insurance is paid in the UK by both the employer and the employee on his/her salary from each employment.

On secondment from an overseas company the employee will only be liable to pay his/her portion of National Insurance after having been here for more than one year, unless he/she is coming here from a country inside the EU (in which case the National Insurance will be payable immediately).

The employer will only pay its portion of National Insurance if there is a permanent establishment here in the UK - i.e. a branch or subsidiary office. In this case the employer will commence paying its portion of National Insurance immediately. If no permanent establishment exists then the employer will not be liable for its portion of National Insurance.

Special Tax Rules on Foreign Travel

There are special rules which give extra relief for travel by some employees who come from abroad to work in the UK under a UK contract of employment (i.e. not on secondment from an overseas employment contract).

To qualify for these special rules the employee must demonstrate that he was not resident in the UK in either of the two tax years which ended before the tax year in which he commences the new contract, and that he was not an employee in the UK at any time in the two years ending on the day before the new contract commences.

In this case the employer will be entitled to relief under the special rules described below for five years from the date he/she came to the UK.

The employee will be entitled to tax relief for the full cost of journeys from the place where the employee usually lives to the place where he/she is working in the UK and back home after carrying out those duties - there is no limit to the number of journeys for which an employee can get relief.

If the employee's work in the UK keeps him/her in this country for 60 days or more the employee will be entitled to tax relief for the cost of a spouse or civil partner and children travelling from their home to visit or accompany the employee to the place where he/she is working in the UK, and their return journey. But the employee can only get relief for up to two outward journeys and two return journeys in each tax year for each member for his/her family.

The employee is only entitled to relief from tax on these costs if it has been agreed with his/her employer that they are to be borne or reimbursed by the employer.

The above advice is predicated upon the person coming from abroad having first obtained the relevant work permit.

The contents of this briefing note comprise general advice only and any specific cases need to be referred to us before any action is taken.

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