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Employees Working Abroad

When your employees go to work abroad you need to think about their potential liability to income tax and national insurance, but be careful because there are different rules for each.

Income tax

The tax liability will depend on how long the employee is to be working outside of the UK. If the employee is to work on a full time contract overseas for at least a year, he will be treated as not resident, and not ordinarily resident in the UK and not subject to UK tax on his overseas earnings, if both of the following conditions apply:

- **Whole tax year** - The employment abroad and the absence for the UK must last for a whole tax year. So to get the best out of these rules the employee should leave the UK shortly before 6 April (the start of the tax year), and not return permanently until after the following 5 April.
- **Visits to the UK** - While working abroad the employee can visit the UK but those visits should not exceed 182 days in total per tax year. Where the employee is abroad for more than a year the visits to the UK should average-out at less than 91 days per tax year since the date of departure from the UK. Although only a maximum period of four years is looked at for this averaging calculation. To be on the safe side restrict all visits the UK to less than 91 days per tax year.

The employee should complete the HMRC form P85 when he leaves the UK, which can be downloaded from the HMRC website. When this form is submitted to HMRC request that the employee's PAYE code is set to NT, so his salary can then be paid without UK income tax deducted. However the employee may become liable to pay income tax in the country where he is working, so you need to get local tax advice specific to that country.

When the employee returns to the UK after completing his overseas duties he should complete the HMRC form P86 to tell the tax office he is now permanently back in the UK.

National Insurance

Where the employee has been living and working as an employee (as opposed to being self-employed) in the UK before he goes abroad, the liability to national insurance will continue for 52 weeks after he leaves. This means that you as the employer, and your employee, both have to pay class 1 NICs for 52 weeks while the employee works abroad. However, there may be a special agreement (known as a reciprocal agreement) for social security contributions between

the UK and the country where your employee will be working, which will determine where social security contributions (such as national insurance) should be paid.

Where the employee is going to work in an EEA country (basically the EU plus some others) or a country which has a reciprocal agreement with the UK, you as the employer should complete two HMRC forms: CA 3821 and CA3822.

It can be to the advantage of the employee to remain contributing to the UK national insurance fund to ensure that their rights to certain benefits and to the state retirement pension are not reduced. Once the 52 week period has ceased, the employee can carry on paying UK national insurance in the form of class 2 contributions. If the only reason for paying these contributions is to achieve the maximum UK state retirement pension, the employee should check whether he is likely to achieve that based on his UK earnings alone. The number of years of contributions required to achieve the maximum state pension is now 30 years.

How We Can Help You

We can help you complete the necessary HMRC forms when your employee goes to work abroad, so please contact us.