tax:watch

Danish Tax and VAT News in English

Taxation when working in Norway

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It can be difficult to get an overview of which tax rules that apply when working abroad. This is emphasised by a recent ruling from the Danish Supreme Court.

By Anders Kiærskou, aek@bdo.dk

The deadline (1 July 2015) for filing the Danish tax return for individual tax payers having worked abroad during 2014 is rapidly approaching. However, many are unaware of the tax rules that apply in their situation. Even the Danish tax authorities sometimes seem puzzled by the complexity of the rules as evidenced in a recent ruling from the Danish Supreme Court.

The case (SKM2015.24.HR) concerned a doctor resident in Denmark who had worked occasionally in Norway for the Norwegian "Rikstrygdeverket".

The doctor had neither paid Norwegian or Danish income taxes on the remuneration he had received from Rikstrygdeverket as it was the opinion of both the Danish and the Norwegian tax authorities that the other country was allocated the right to tax the income according the double tax treaty between the two countries.

The main question before the Supreme Court was whether the double tax treaty prevented Denmark from taxing the income.

The Supreme Court concluded that the Norwegian tax authorities had deemed the income to be business income according to domestic Norwegian tax law. Hence, the right to tax the income was allocated to Denmark according to the double tax treaty.

The Supreme Court ruled that the double tax treaty did not prevent Denmark from taxing the income.

The reason was a special provision in the double tax treaty that allocated Denmark a subsidiary right to tax the income in these cases where Norway – due to domestic Norwegian law - did not tax the income.

The Supreme Court further ruled that taxation of the income in Denmark was not in violation of firmly established administrative case law even though the Danish tax authorities had not taxed this type of income for years. Hence, the Danish tax authorities had not exercised inaction that could be ranked alongside a decision or acknowledgement that this kind of income would not be taxed.

The fact that the Danish tax authorities had not taxed this kind of income for years – likely due to unawareness of the applicable tax law in these cases - does emphasize the complexity of the tax rules that apply to individual tax payers working abroad.

Content

However, in the eyes of the law, unawareness of the applicable rules rarely absolves the taxpayer from liability.

If you have worked abroad and need tax advice in this respect, BDO can help you.

Social security when working in different European countries

A case before the Court of Justice of the EU has given rise to concern among business travellers and their employers in relation to social security coverage. Fortunately, the case has no implications for most business travellers.

By Anders Kiærskou, aek@bdo.dk

A pending case before the Court of Justice of the European Union has recently given rise to publicity and significant concern has been expressed regarding social security coverage for business travellers and their employers.

The concern is that the case could lead to business travellers being covered by social security in many different European countries as they visit these countries as part of their work.

This would be a problem as business travellers and their employers might be required to pay contributions to social security in many different countries. Further, the business traveller would likely experience inferior social security coverage – for example in relation to benefits that require a period of accrual before the individual is eligible to receive the benefit.

Fortunately, the reality is that the case has a much narrower application. For most business travellers, it has no implications at all.

The case concerns a Polish resident employee of a Cypriot temporary employment agency. The employee worked consecutively for shorter periods of time in different EU countries - none of which were Poland or Cyprus. The subject of the case is whether the employee should be covered by social security in the country where he temporarily worked - thereby following the main rule of social security coverage – or whether he should be covered by social security in the home country of the employer – Cyprus – according to an exception to the main rule.

The question arises due to the fact that one of the work countries and the work periods were undetermined at the time of conclusion of the employment contract and at the time where the authorities had to determine in which country the Polish employee were covered by social security.

The situation for most business travellers is different. Most business travellers are either performing a significant part of their work in their home country and/or the home country of the employer and they are not risking to be covered by social security in every European country they visit when travelling on business.

The case does, however, have implications for employees of temporary employment agencies under similar circumstances as the Polish employee of the Cypriot temporary employment agency. Further, the case will have implications for business travellers that do not work significantly in their home country or the home country of their employer.

Fortunately for these employees and their employers, the recently released opinion of the advocate general states that the Polish employee of the Cypriot temporary employment agency should be deemed covered by Cypriot social security during the employment period as opposed to social security in all the different countries where the work was performed. Hence, there may not be an issue at all. The verdict of the court is expected later this year.