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Be Aware of the Tax Implications of Sending Employees Abroad

by Marie Lenarduzzi, CPA

As businesses increasingly compete on both a national and global level, it has become more common to send employees to work in other countries. Along with legal, immigration and cultural considerations, it is important to understand the tax consequences of sending employees abroad, especially because of the increased communication between immigration and tax authorities. It has become common to send employees on short-term assignments or for training and development, and some employees may cross the border every day if they work in one country to work and live in another.

If the employee is moved to the foreign country in a long-term assignment, they may qualify for the foreign-earned income exclusion (FEIE). In this case the employee can exclude up to \$102,100 in U.S. income for 2017. In order to qualify, the employee must meet either the physical presence test or the bona fide residence test. For the physical presence test, the employee must be abroad for 330 days in a 365-day period and the bona fide residence test is met when the employee is abroad for an infinite period that includes at least one full year.

For the long-term move abroad there are other items to consider, including payroll taxes, foreign housing exclusion, foreign tax credit, and the treatment of employer-provided benefits. In addition, each host country has its own tax laws, rates and treaties which will influence the employee's particular situation.

Short-term assignments have fewer compliance requirements and less likelihood of creating tax residency and payroll requirements. Most countries view a stay of less than 183 days as short-term. However, those without a tax treaty may have a lower limit.

Overseas assignments may also have the risk of creating permanent establishment (PE) where the U.S. company would then be subject to a corporate tax liability in the host country. Typically treaties use two tests in determining PE: (1) whether the corporation has a fixed place of business, and (2) whether the corporation operates in the host country through a dependent agent that often exercises the authority to sign contracts on behalf of

the corporation. However, each country varies on what factors will subject a company to permanent establishment.

Because of the tax exposure both on the employee level and corporate level, it's important to carefully draft employment contracts, assignment letters and other documents related to the employee's overseas assignment to avoid unnecessary risk.

For more information regarding **international tax matters**, please contact Marie Lenarduzzi, CPA, at 440-605-7149 or **email Marie**.