

Human Resource Services*

News from the Nordic countries



Issue 1, March 2010

Introduction

We are pleased to introduce you to the first Nordic Newsletter of 2010, which includes updates from the Nordic countries in respect of immigration, tax and social security. A new EU regulation regarding social security will enter into force on May 1, 2010, and thus the theme of this Newsletter is the impact of the new regulation seen from a Nordic perspective.

Further, we have included information on seminars which may be of interest to you.

The next Nordic Newsletter will be issued end of May 2010.

Pia Traunberg Schnell – Senior Manager HRS Denmark

Sweden

New ruling from the Swedish Supreme Administrative Court – A trap for employers with tax equalized personnel?

The Swedish Supreme Administrative Court has recently passed a ruling regarding how to calculate current year gross-up income for tax equalized personnel. According to the ruling, general deductions (*"allmänna avdrag"*) and basic allowance (*"grundavdrag"*) shall be excluded when calculating gross salary. As a consequence, it is likely that payroll costs will increase for employers with tax equalization policies. We recommend that employers with such policies investigate how the ruling will affect them and what actions they need to take.

New simplified rules for labor immigration apply as of January 1, 2010

Non-EU/EEA citizens are normally required to have a work permit in order to work in Sweden. The permit needs to be granted before travelling to Sweden, and no work can be performed in Sweden without the work permit. As of January 1, 2010, no work permit is needed in the following two situations:

- The individual is employed within a large multinational group of companies and obtains practical experience, internal education or other forms of in-service training at a company in Sweden which is part of the group.
- The individual comes to Sweden to close a business deal and, within the framework of the business deal, obtains education, performs tests, prepares transports or performs similar activities in order to carry out the business deal.

The work performed in Sweden cannot exceed a total period of three months during a 12 month period. The individual is to make his/her own assessment to whether or not a work permit is needed during the limited period in Sweden. The employer may provide a certificate to be sent to the applicable Swedish foreign embassy describing the circumstances and conditions of the work in Sweden. A business visa will be granted by the applicable Swedish foreign embassy, together with a confirmation that a work permit is not required. If it is uncertain that the individual fulfills the criteria, the Swedish foreign embassy may ask the Swedish Migration Board for a second opinion.

Norway

There have been some changes regarding the reporting requirements/routines to the Central Office - Foreign Tax Affairs (COFTA). This is a short summary of some of the changes you should be aware of.

Reporting of contracts and employees

The previous forms RF-1198 "Information on employees" and RF-1199 "Information from principal on contractor/contracts" will be replaced with a new form RF-1199. The new form was scheduled to be used as from January 18. However, there may be a few weeks postponement according to COFTA.

The new RF-1199 will contain a part 1 about information on the contract and a part 2 about the employees. If the contractor submits part 1 (contract information), you will need a copy of this, as a copy of part 1 always needs to be attached when submitting part 2. When reporting new contracts (part 1), we recommend that a copy of the contract with the contractor is enclosed.

Tax Card

For previous years COFTA has sent the employee's tax card to the employer/company. Tax cards issued from February 2010 and onwards will be sent to the employee's home address reported on the RF-1198. The employee will then be responsible to forward the tax card to the employer. The employer therefore needs to establish routines to ensure that he receives the tax cards from the employees.

Tax Return

For 2009 there will be a new tax return form. Employees who have been reported working in Norway or on the Norwegian Continental Shelf will receive a partly pre-filled tax return. The tax authorities will send the tax return to the employee's home address in early April 2010 regarding the income year 2009.

Due date for filing personal tax returns will from 2010 onwards be April 30. The due date for filing the income tax return for 2009 is therefore April 30, 2010. The tax return for 2009 can also be filed electronically. PIN codes to use for electronic filing will be sent out by the tax authorities to the employees in a separate letter before the tax returns are sent out.

In order for us to review and submit the personal tax returns, we need either to receive copies of the tax return or the PIN codes.

Further information regarding reporting requirements is available on the tax authorities' internet pages: <http://www.taxnorway.no> from the last week of January onwards. The new RF-1199 will also be made available at the same internet address.

CLIENT EVENTS & SEMINARS

11 March 2010	Seminar regarding the new social security legislation	Copenhagen
20 April 2010	Seminar regarding the new social security legislation	Stockholm
21 April 2010	Seminar regarding the new social security legislation	Gothenburg
22 April 2010	Seminar regarding the new social security legislation	Malmö



Contact persons

Denmark:	Mona Lorentsen	☎ + 45 3945 3398	✉ mona.lorentsen@dk.pwc.com
Finland:	Risto Löf	☎ + 358 9 2280 1811	✉ risto.lof@fi.pwc.com
Norway:	Erland Nørstebø	☎ + 47 95 26 06 69	✉ erland.norstebo@no.pwc.com
Sweden:	Anders Assarson	☎ + 46 31 793 14 23	✉ anders.assarson@se.pwc.com

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Theme: The new EU regulation on social security

Introduction

As of May 1, 2010 the EU regulation 1408/71 regarding social security will be replaced by EU Regulation 883/2004. The new Regulation was to become applicable from March 1, 2010 but has been postponed to May 1, 2010.

The new rules aim at simplifying the coordination of the social security systems of the EU Member States in order to support the citizens' right to free movement within the EU.

Denmark

In Denmark, the EU Regulation 883/2004 will come into force on May 1, 2010. The Danish authorities will in the end of March 2010 publish a guide regarding the application of the Regulation.

Due to the fact that Danish social security costs levied upon the employer and the employee are very low compared with the other Nordic countries, the new Regulation may lead to lower as well as higher social security cost, depending on whether the employee can be covered or remain under Danish social security or not during a temporary assignment. Consequently, planning opportunities are applicable.

The new Regulation outlines that an employee who is seconded temporarily from e.g. Denmark may remain under Danish social security if the secondment period does not exceed 24 months. Upon common agreement between the Member States, exceptions may be provided, by which the employee may remain under the legislation of their home country for up to five years. However, in Denmark, only three years coverage under Danish social security is accepted.

Denmark and Sweden have agreed on the "Øresundsaf-tale" based on the current EU Regulation 1408/71. According to the "Øresundsaf-tale", a commuter working in both Denmark and Sweden may under certain conditions remain covered under the social security system in the country of work despite the commuter is working up to 50% in the home country. It is uncertain whether a new "Øresundsaf-tale" will enter into force on May 1, 2010. If no agreement is made it will affect new commuters working more than 25% but less than 50% in their home country.

Finland

The new EU Social Security Regulation 883/2004 will come into force as of May 1, 2010 in Finland. The Finnish social security authorities will publish guidelines concerning the application and practicalities of the new regulation in the beginning of April 2010.

Finland will implement the new EU Social Security Regulation without making reservations. According to the new regulation, the employee sent on temporary international assignment by the employer may remain covered by the home country social security system if the assignment lasts 24 months at maximum. With an exemption, a posted employee may remain covered by the home country social security system even longer (maximum five years).

In case the employee works in two or more countries, (s)he may remain covered in the home country social security system if the employee performs a substantial part of activity in his/her home country. Otherwise the employee will be insured in the country where the employer has the registered office or place of business. A person employed in one state and self-employed in another state will only be covered by the social security system of the country where the employment activities are carried out. It should be noted that there is a transitional period of 10 years for the applicability of the old regulation. The transitional period includes the cases where the circumstances of the international assignments started before April 30, 2010 remain unchanged after May 1, 2010. It should be also noticed that E-101 certificates will be replaced by the new electronic documentation. That is expected to come into force on May 1, 2012.

It should however be noted that the new regulation will not be applied to the citizens of non-EU member states (e.g. EEA countries, Switzerland, third country nationals) and, therefore, the provisions of the old Social Security Regulation 1408/71 will simultaneously continue to be applied in certain situations in Finland.

The new regulation, and the fact that in certain cases also the old EU Social Security Regulation is applicable, will increase the employer's liability to monitor the international assignments more precisely (where the assignees reside, what their tasks are, what kind of work pattern they have, if they are commuters, if their circumstances will change after May 1, 2010). In case the employer does not carefully monitor the circumstances, especially when the employee commutes between two countries, the changed circumstances may have an impact to the employee's social security status and employer's liabilities. The employer will also be liable to inform the social security authorities about the changed conditions and clarify the factual conditions of the international assignments.

Sweden

According to the new rules, an individual who will be working in two or more countries for the same employer should remain in the home country social security system if 25% or more of the total work is performed in the home country. Due to this new criteria, it is necessary to review future travel patterns for commuters between the Nordic countries in order to ensure correct social security belonging. As there are planning opportunities when it comes to social security, it is necessary to investigate if it is necessary to making changes to existing company commuter policies in order to comply with the new regulations.

It is still unclear how the new rules will be interpreted by the Swedish social insurance office ("Försäkringskassan").

Norway

The new EU Regulation 883/2004 will **not** be effective in Norway from May 1, 2010. As Norway is not an EU-member, Norway, together with Iceland and Lichtenstein, has to incorporate the new Regulation 883/2004 into the EEA agreement before the new Regulation enters into force.

According to present information from the Norwegian authorities, it is not possible to predict a time estimate for when the new legislation will apply. However, the Regulation 1408/71 and Regulation 574/72 shall remain in force and continue to have legal effect until the agreement on the EEA is amended on the basis of the new Regulation.

The new Regulation and new legislation are not considered as controversial from a Norwegian point of view. We expect that the new legislation for individuals posted to another member state for a period not exceeding 24 months will simplify the application process in Norway. However, we are awaiting the interpretation of the Norwegian social security authorities on how to deal with multi-state workers and the requirement for substantial employment (25% of time/and remuneration) duties in the home country if this social security contribution position is to be maintained.

