South African Payroll Association
5 October 2016

Cross-border payroll: Some guidelines for payroll professionals

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South African companies— as well as many global multinationals—are increasingly seeing the rest of the continent as an attractive growth target. No matter what particular business model they adopt in the target country, they are likely to find themselves seconding specialist staff to their in-country operations. In general, these expatriates would remain on the payroll of the South African or parent company.

Making salary payments to an employee working in another country raises a whole set of inter-related issues that payroll professionals need to consider carefully. While not exhaustive, the following are some of the key areas to think about:

Draft a cross-border remuneration policy

Chances are there will be more than one employee affected, so it is critical that the company has a policy in place that sets out the principles relating to how the company deals with employees working across borders. The policy should protect the interests both of the company and its employees. Many of the subsequent points would be integrated in the policy, as well as in the individual employee contracts. A payroll professional would be best suited to advise business owners on what this policy should look like.

Ensure that the employee is not disadvantaged by his or her secondment

One important principle is that the employee should not be financially or otherwise disadvantaged by the requirement to work in a foreign country. At a practical level, this means considering carefully what the tax rules in the host country are—tax rates might be higher or tax compliance more complex—as well as the terms of the double taxation agreement between South Africa and the host country (if there is one).

An added consideration here would be to consider how much time is expected to be spent outside of the Republic, and the impact this would have on tax. For example, it might be that the package is structured based on the fact that the employee is expected to be exempt from paying tax in South Africa because he or she is out of the country for more than 183 days in aggregate, 60 of which are continuous, in a 12 month period. Thought needs to be given to the impact of the employee forfeiting this tax exemption by having to make an unplanned trip home, either for business or personal reasons. If deemed a South African resident by SARS, an individual would be liable for normal taxes, including PAYE, and this could be hugely negative if the exemption condition is not met. How to handle such unexpected events should be covered in the policy.

These kinds of complexities, and the fact that the unexpected could happen, means that many companies actually opt for simply paying a home nett salary and taking care of the employee's tax themselves on behalf of the employee. Although this approach has the virtue of simplicity, it must also be recognised that SARS will treat this payment of employee PAYE as a payment of the employee's debt. This is seen as a taxable benefit in the hands of the employee and thus increases the employer's the cost of the employee.

Structure the reward package carefully for tax compliance

While ensuring that the employee is not disadvantaged, it is equally important that his or her cross-border package complies with the tax regimes in both countries. In practice, employees on secondment are usually paid a premium in the form of a hardship allowance or similar subsistence allowance, and this should be structured in a way that is beneficial to the employee while remaining tax-compliant in both countries. Both employee and employer need to fulfil their tax obligations to the host and home countries, and tax evasion should be avoided as it is a criminal offence.

Give thought to medical aid and evacuation

While an individual is on secondment in a foreign country, he or she would need to continue paying South African medical aid in order to avoid late joiner penalties. Late Joiner Penalties may be imposed on members over the age of 35 if they have not belonged to a medical aid before, or if they have had a break of more than 90 days from a medical aid. Depending on the number of years that they have not belonged to a medical aid, a late joiner penalty will be added to the member's monthly contribution and worked out as a percentage of the contribution based on the total number of years a member has not been on a medical aid since the age of 35 years. But he or she would also need medical cover in the foreign country. Who pays for this, and what are the arrangements if urgent repatriation for medical or other reasons is indicated?

Does the employee's death benefit cover cross border deaths?

Death is normally not a topic that forms part of general discussions, but an employer needs to make sure that the policy in place to cover death covers cross border eventualities. An employer might find themselves in trouble if such an event occurs and the employee was not covered outside the borders of South Africa. Ensure that proper precautions are in place as this can also result in an increase to the cost to the company.

In conclusion, it should be apparent that this a complex area, and the payroll policy needs to be robust in order to copy with different eventualities. My advice would be for business owners to work closely with a payroll practitioner that specialises in cross border remuneration structuring to understand the issues fully, and to structure the company policy and individual employment contracts.

One might find that the cost to the company is much higher than budgeted for as the secondment could result in unanticipated costs if not thought through thoroughly before drafting both the business contract and the employee contract.

Photo caption:

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