



Individual tax alert Belgium

Recent developments and upcoming changes within the Belgian social security administration for employees

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With the Belgian social security authorities operating with increased focus on international employment situations, significant developments and changes were noted over the last year. The most relevant are outlined in this alert.

Seconded in view of replacing another seconded person

One of the standard secondment conditions set out in both the old Regulation 1408/71 and the new Regulation 883/2004 states that a person cannot be seconded to replace another person (in the same host country) who has completed his/her secondment term. In such a case, an A1 form will not be issued and the host country's social security will apply. For example, a Belgian expat cannot be assigned to Germany in order to replace another expat who was assigned to Germany for the same job.

This condition logically results from the fact that a secondment should always have a temporary character and is not meant to assign permanent tasks in a specific host country with a succession of seconded employees.

In practice, compliance with this condition has not been actively verified by the Belgian social security authorities for several years. However, given the authorities' increased focus on international employment, both the Belgian social security administration as well as foreign social security authorities are again seen to be verifying whether this condition is met. In this respect, Deloitte Belgium has been informally notified that the Belgian social security administration will add an explicit question on this matter in their application forms in the coming months.

It should be noted that the Belgian social security administration currently still follows a more flexible interpretation which allows the replacement of a seconded person by another secondee, as long as the duration of both secondments is no longer than 5 years. This however, is still evaluated on a case by case basis.

B2B assignments

Another area on which the social security administration is increasing its focus is 'back to back' (B2B) assignments. A B2B assignment occurs when an employee is taking up another assignment immediately following the end of his/her previous one, without returning to his/her home country in between.

For expats on subsequent and uninterrupted B2B assignments during a longer (undefined) period, compliance with the following assignment conditions is thoroughly investigated:

- the continued link with the home country employer - is this link still genuinely existing after several B2B assignments?
- the limited duration of the assignment structure is under overall consideration - not limited to the pending assignment but over the entire uninterrupted B2B assignment period.

If the RSZ/ONSS considers that there is no link with the home country anymore, they can refuse to issue an A1/COC. Consequently, the person concerned will no longer be able to remain subject to his/her home country social security legislation and hence the host country's social security contributions will become due.

Travel pattern

Social inspectors are seen to be focusing increasingly on seconded employees' travel patterns. Social inspectors screening secondment files tend to check, on a more standard basis, whether the employment situation effectively concerns an assignment or qualifies as simultaneous employment. In the latter case, depending on the working time division across different member states, the applicable social security legislation might change. Indeed, from a social security point of view, the secondment could be considered as a simultaneous employment situation whereby the social security scheme of the home country employer may no longer apply in certain situations. It is therefore important to keep track of and have a good view on the travel pattern of secondees.

Deloitte Belgium's immigration and social security team (IMSS) will provide updates and is readily available to provide more detailed information.

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