



Global InSight

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Belgium:

Croatia joins the EU: immigration and social security consequences

On 1 July 2013, Croatia became the 28th member state to join the EU. This entry will have consequences for immigration and social security, two elements which we highlight below.

Transition period work permits

The treaty regulating Croatia's entry into the EU foresees the possibility of EU member states implementing transitional measures with respect to the free movement of Croatian workers. The consequence of these measures, if implemented, is that Croatian nationals will not yet be able to benefit from the free movement of workers principle.

On Friday, 17 May 2013, the Belgian Council of Ministers approved a draft Royal Decree that will implement a 2-year transition period for the employment of Croatian nationals in Belgium. In practice, this implies that employers planning to hire Croatian nationals in Belgium still need to apply for a work permit with the relevant regional authorities.

Nevertheless, there is a possibility that Croatian nationals (as EU-nationals) will be exempt from possessing a work permit within the free movement of services framework. This exemption is not valid for temporary agency work or for any other form of employee posting. In addition, Croatian nationals can also easily obtain a work permit if employed by a Belgian employer in order to solve manpower shortages in particular employment sectors (so-called "bottleneck occupations").

Social security coordination

Furthermore, as from Croatia's entry into the EU on 1 July 2013, EU Regulation 883/2004 on the coordination of social security systems will become applicable. The rules of this regulation will prevail over the currently existing bilateral social security totalization agreements.

Consequently, the social security situation should be examined (in principal before 1 July 2013) for all employees and self-employed persons assigned to or from Croatia within an EU-context, or working in simultaneous employment in Croatia and (an)other EU member state(s). Any existing and current bilateral social security documents should be replaced by the corresponding EU forms.

Deloitte Belgium's immigration and social security services team is readily available to provide more detailed information.

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Belgium:

New rules on the calculation of social security contributions for self-employed persons

The ministry in charge of the self-employed has announced a proposal to reform the Belgian rules for calculating the social security contributions applicable to self-employed persons.

Due to this reform, the social security contributions for each self-employed person will be calculated on the basis of his or her actual net taxable income from the current income year, as opposed to his or her net taxable income from the third year preceding the current income year.

Since a self-employed person's actual net taxable income from the corresponding year is not yet known at the beginning of a new year, his or her provisional social security contributions will initially be calculated based on his or her net taxable income from the third year preceding the current income year (similar to the old system). Regularization will then take place based on each self-employed person's income from the current income year. Additionally, one of the new system's advantages is that a self-employed person can voluntarily request to decrease or increase his or her social security contributions in order to avoid eventual overpayment or large regularization; for example, in cases where a significant income decrease or increase is expected.

Since the income of many self-employed persons fluctuates annually, the current calculation system often leads to inconvenient situations. For instance, if a self-employed person experiences a significant income reduction in the current year, that person must still pay the higher social security contributions calculated on his or her income from three years ago. The purpose of these new rules therefore is to avoid such anomalies.

The target date for applying the new calculation system is currently set at 2015.

Deloitte Belgium's immigration and social security team is readily available to provide more detailed information.

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China:

Beijing to require foreigners to submit noncriminal record certificate to obtain an employment license, work permit, or expert permit

Summary

As of 1 July 2013, a foreign applicant seeking an employment license, work permit, or expert permit in Beijing will be required to submit an original noncriminal record certificate to the Beijing Labor Bureau or Foreign Expert Bureau if:

1. The applicant is applying for a work permit or expert permit in Beijing for the first time; or
2. The applicant is transferring a previously granted work authorization to Beijing from another city in China.

If the individual comes to China directly from overseas, they should obtain the initial noncriminal record certificate from their home country's government. If the certificate is obtained from a nongovernment organization outside of China, it also must be submitted to the relevant Chinese consular post overseas for legalization.

If the applicant transfers to Beijing from another city in China based on a valid work or expert permit, they must apply for the noncriminal record certificate from the city in which they first obtained the relevant permit.

The new regulation will not apply to Hong Kong/Macau or Taiwan citizens.

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United Kingdom: Impact of Government consultation on 'Offshore Employment Intermediaries'

Overview

On 30 May 2013, the UK Government issued a consultation document on 'offshore employment intermediaries', a form of employment arrangement that the Government believes is exploited to avoid UK tax and National Insurance (social security) contributions. The proposals seem to be targeted at certain offshore employers in the oil and gas, financial services, business consumer, and service industries in particular.

However, while the Government's proposals are intended to tackle the perceived avoidance of tax and National Insurance contributions, the consultation document suggests that all employers that have employees working in the UK, including those working in the UK under a formal international secondment, will be affected.

Summary of main proposals

The Government's main proposals are to introduce legislation that will:

Require in the first instance the offshore employer to:

- Operate PAYE (UK tax withholding);
- Account for employer and employee National Insurance contributions;
- Pay all statutory payments to its employees, e.g., Statutory Sick Pay and Statutory Maternity Pay;
- Deduct from employees any amounts owing such as student loan repayments; and
- Make reports and remittances of tax and National Insurance to HM Revenue & Customs (HMRC) via Real Time Information (RTI).

Transfer the obligation to operate PAYE and account for National Insurance contributions to:

- An intermediary in the UK in the event that the offshore employer does not account for the full amount of tax and/or National Insurance contributions due for three months; and
- The end user in the event that there is no intermediary or the intermediary also defaults on its obligations due to insolvency/bankruptcy.

Introduce new record keeping and reporting obligations including the submission of quarterly reports by the intermediary or, in the absence of an intermediary, the end user.

Impact on employers who operate international mobility programs

Even though regular international mobility programs are not the target of this anti-avoidance measure, it seems likely that employers who operate such programs will be affected. We will understand better the full impact on international mobility programs once the draft legislation has been issued in the next few weeks but in the meantime, employers may wish to consider the following:

- The potential cost impact.
- The impact on intercompany agreements which may need to be amended to make clear whether the offshore employer or the UK host employer will account for PAYE and, where relevant, National Insurance contributions.
- The need to ensure that evidence is available on a timely basis in the event that an assignee is not subject to National Insurance contributions because, for example, they remain subject to home country social security contributions under a social security agreement.
- The potential impact on short-term business visitors.
- The additional reporting requirements that will be placed on UK entities as a result of the proposed quarterly reporting obligation.

Deloitte's view

These proposals are likely to impact all employers that have employees working in the UK and not just those that are the intended target of what is clearly an anti-avoidance measure. At the very least the proposals are likely to lead to new reporting requirements although in some instances the impact will be much greater.

The Government's intention is that the new provisions will be in force from 6 April 2014. While this timescale looks ambitious, given the current focus on tax avoidance the proposals may be pushed through quickly for political if not fiscal reasons.

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If you have needs specifically related to this newsletter's content, send us an email at clientsandmarketsdeloittetax@deloitte.com to have a Deloitte Tax professional contact you.

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