

# WTS Global Mobility Newsletter



## Editorial

Dear Reader,

We are pleased to present the 1<sup>st</sup> edition of our WTS Global Mobility Newsletter for 2021.

The Global Mobility environment is changing in a dynamic way. Therefore, to keep you up to date, our WTS Global Mobility Newsletter provides you with an overview of recent developments in selected EU and third countries.

Austria made a U-turn and abolished the wage withholding tax for foreign employers just introduced at the start of last year.

China will see major changes take effect in 2022 regarding the tax honeymoon for expatriates - and this is definitely worth thinking about already now.

In this issue we report on significant changes for non-resident employees in Germany - applicable from 2020 onwards. Many non-resident employees will have to file an annual German income tax return for 2020 in 2021.

We provide information about the amendments of the Italian tax regime for "impatriates", as well as migration and personal income tax updates for 2021 in Russia.

This newsletter explains whether or not a foreign employee, assigned to Senegal for less than 90 days, has to file a personal income tax declaration.

Furthermore, Sweden introduced the economic employer concept as of January 2021.

And in conclusion, this newsletter contains an update about the new flat tax in the Czech Republic as well as COVID-19-related updates from Hungary and France.

We hope you find our newsletter useful, and we welcome your feedback and suggestions. Our experts at the WTS Global Mobility team will be happy to answer any questions you may have regarding any aspect of this newsletter.

Enjoy reading,

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## Austria



### Wage withholding tax for foreign employers abolished!

According to the legal situation in force since 1 January 2020 (§ 47 EStG as amended by AbgÄG 2020), foreign employers had to withhold wage tax in the following cases:

- Existence of the permanent establishment of wage tax in Austria;
- No permanent establishment of wage tax in Austria, but employment of employees subject to unlimited tax liability in Austria.

In all other cases, the foreign employer could choose to carry out a voluntary wage tax withholding.

According to the wording of the law, foreign employers would thus have been obliged to withhold wage tax in Austria even if an employee with unlimited tax liability does not physically work in Austria. The Federal Ministry of Finance (BMF) therefore clarified, via an update of the income tax guidelines, to limit the obligation to withhold income tax to those constellations in which the employee physically worked in Austria, and the country also had the right to tax the employee's income under treaty law.

Even this restriction of the legal scope could not prevent many foreign employers from slipping into a mandatory payroll tax registration and withholding the procedure due to the outbreak of the COVID-19 pandemic. This was because in many cases Austrian employees could no longer commute to their foreign place of work; but rather had to carry out their work in the Austrian "home office".

#### **New legal situation after the COVID-19 Tax Measures Act**

The legislator has decided – somewhat surprisingly – to restrict the mandatory wage tax withholding procedure to those constellations in which the foreign employer has a wage tax permanent establishment in Austria.

If, on the other hand, the foreign employer does not have a permanent establishment for wage tax purposes, the following now applies:

- If the foreign employer hires an employee who is subject to unlimited tax liability in Austria and whose centre of activity is in Austria for more than six months of the calendar year, the employer must submit a so-called "Lohnbescheinigung" (wage statement) to the tax office by January or, in the case of electronic transmission, by February of the following year. Thereafter, a different submission deadline of 31 March 2021 applies with regard to the wage statement for the calendar year 2020. This wage statement must state the name, place of residence, date of birth and social security number as well as the amount of gross remuneration. The official form "L 17" should be used for this purpose.
- In all other cases, the foreign employer can make a voluntary wage tax deduction in Austria. The law also specifies, for the first time, which obligations a voluntary deduction will entail: maintenance of a wage account, withholding and payment of wage tax, transmission of annual wage slips and granting of access to wage records. However, if the foreign employer does not pay the correct amount of wage tax, this does NOT constitute a wage tax liability. Rather, in this case, the employee is subject to file an income tax return.

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The new provisions of the COVID-19 Tax Measures Act will become effective retroactively as of 1 January 2020. This means that the former legal obligation to withhold income tax from foreign employers when hiring employees with unlimited tax liability (pursuant to Section 47 EStG as amended by AbgÄG 2020) will be retroactively abolished. If the employer has already fulfilled this obligation in the meantime, this is deemed to be a "voluntary deduction of wage tax".

## Bulgaria



### COVID-19: what are the implications on employees and employers in Bulgaria in 2021?

The extraordinary circumstances that the world faced in 2020 have led to numerous changes in labour legislation worldwide, including in Bulgaria. March 2020 saw Bulgaria declare a state of emergency and adopt an Act on the Measures and Actions during the State of Emergency. Most of the changes that addressed the need to rearrange the relationships between employer and employee as a result of the emergence of COVID-19 became effective on the territory of the country from March 2020. In May 2020, the Bulgarian government declared an "emergency epidemic situation" which replaced the state of emergency and which enabled the extension of some of the measures that were introduced during the state of emergency. At present, the "emergency epidemic situation" has been extended until 30 April 2021, and this means that most of the measures will continue to be implemented in 2021. Some of those measures that will remain applicable in 2021 are as follows.

Employers whose activities have not been suspended during the emergency epidemic situation are entitled to introduce unilaterally home-office work or telework, without the consent of the employees or part-time work for all or part of the enterprise. Additionally, the employers may grant up to one half of the paid annual leave to an employee without their consent.

If work has been suspended by order of the employer or by virtue of a state body act, the law provides several possibilities. The employer may unilaterally, without the consent of the employees, grant them their paid annual leave. The employer is not entitled to grant unpaid leave without the consent of the employee. However, the employer is obliged to grant the requested paid or unpaid leave to several categories of employees (incl. pregnant employees and employees at an advanced stage of IVF treatment, mothers or adoptive mothers of a child up to 12 years of age or of a disabled child, regardless of their age, etc.)

After 1 January 2021, the unpaid leave for a period of up to 60 days will be acknowledged as work experience. During 2021, up to 60 of those days will be acknowledged as social security periods.

At the end of 2020, the National Assembly adopted several additional amendments in the area of employment law which are aimed at primarily guaranteeing the rights and interests of employees and employers in this rapidly changing environment. The first relevant amendment concerns employees who have been in close contact with a confirmed case of COVID-19. The law provides that they shall switch to telework or the home office if the

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nature of the work allows this to be the case. Secondly, through collective bargaining, trade unions and employers at branch and sectoral level may negotiate a longer period of overtime, but not more than 300 hours in a calendar year. At the same time, the restriction set in the Labour Code for overtime work up to 150 hours per year, when no collective labour agreement has been concluded, is maintained.

Lastly, the legislator clearly regulated that the Bulgarian Labour Code is the applicable law for employment relationships with an international element between an employer and an employee whose place of work is in Bulgaria or abroad, unless otherwise agreed in the employment contract or provided for in the law or in an international contract, which is in force for Bulgaria. The aim is to ensure equality for employees, as well as the opportunity to enjoy the protection of labour legislation, irrespective of their citizenship.

## China



### Tax honeymoon for expatriates ending on 31 December 2021

1 January 2022 will be the date when the three major allowances (housing rental, child education and language training) for expatriates working in China will cease to be exempt from China's individual income tax (IIT) – instead they will be replaced by six other deductions which are unfortunately capped at a very low level. This will result in a drastic cut to take-home pays (see two examples below).

On the same date, the IIT benefit for annual bonus is also set to end for all tax residents including expatriate staff in China.

Rumour has it that an extension could be granted by the Chinese tax authority. No matter what the decision is, both employers and employees are advised to prepare for the worst.

We have responded to the FAQs below in order to shed light on some major considerations in China tax regimes – for both employers and employees.

#### FAQs on IIT policy change

##### Q: To what extent will the tax burden increase after 2022?

A: We are talking about a 10% ~ 30% salary cut. The higher the allowances, the larger the cut – when the IIT exemption is cancelled (as announced already). Otherwise, we can keep our fingers crossed that an exceptional extension will be offered. Alternatively, employers must see if any alternative way of tax calculation can offer better savings. For example, for those who earn a living by obtaining a large bonus or sales commission, they can consider combining the bonus with all their other income for the IIT calculation, instead of taxing the bonus alone. It may achieve an overall tax saving.

##### Q: How should employers cope with the policy changes?

A: Employers need to revisit the employment contracts, adding proper 2021-2022 transition clauses, e.g. how a salary (take-home pay) should be adjusted, or how much of the tax cost should be borne by the employer. Most of the current employment contracts have not addressed how to deal with the salary cut following the policy changes.

**Q: Does it matter to staff stability?**

A: Very much. Some expatriates may find it hard to accept or continue an assignment in China if their take-home pay will drop drastically. They would expect employers to tackle the issue as a priority. This shows how much an employer cares about its workforce. No matter what, a solution must be sought on a case-by-case basis. It will also take time to seek professional help where contracts are concerned.

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**Q: Will the IIT benefits be renewed beyond 2022?**

A: It was announced that the IIT exemption for rental, child education and language training will fail to exist by the end of 2021. It has not mentioned any other allowances (e.g. home leave, relocation expense, meal, laundry) – which may continue to be tax free.

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**Germany/  
France**



**Being prepared for the 2020 French and German  
tax return filing season**

There is a consultation agreement between France and Germany which should mitigate the tax consequences of home-working days caused by the pandemic. In this regard, we refer to our previous WTS Global Mobility Newsletter. This consultation agreement stipulates that days spent working from the home office due to the COVID-19 pandemic may be deemed to be spent in the state where the employee would have carried out the work without the current COVID-19 measures. This gives the employee the right to choose taxation of the salary related to the work days in the country of treaty residency or in the country of employment.

Since taxation in France and Germany is very different, this option should be exercised carefully in order to benefit from the lowest taxation.

In the rarest of cases, this option will already have been implemented for payroll tax purposes in 2020. The option therefore needs to be exercised within the French and German income tax returns. The tendency is to assume that taxation in France is more favourable than taxation in Germany. The option will therefore probably be decided in favour of France in most cases. If in doubt, a comparative calculation should provide clarity.

The consultation agreement remains in force. It can be terminated by one of the contracting parties with one week's notice before the beginning of the following calendar month. Since, according to current knowledge, the pandemic will remain with us for several months into 2021, it is not expected that the consultation agreement will be cancelled for the time being.

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For 2021, this raises the question of whether exercising the option should not already be taken into account in the context of payroll tax withholding. This means that the more favourable taxation will not have to wait until income tax returns are filed in both countries. We would be happy to offer support with the corresponding implementation.

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## Germany II



### New tax return filing obligation for non-residents in Germany

In Germany, a new fact has been introduced that has led to an obligation for non-residents to file a German income tax return. In the majority of cases, this will cause a considerable additional tax burden in addition to the additional effort of submitting the declaration. It applies as of the 2020 German tax return filing season which should start in 2021.

#### Previous legal situation

Before 2020, wage tax withholdings on employment income for non-residents was generally considered as the final tax. Only in exceptional cases there was an obligation to file a German income tax return, for example in cases of allowances that were considered for German withholding tax purposes or where the tax return filing was requested on a voluntary basis. The latter only applied if the requirements were met (i.e. voluntary tax return only possible for EU/EEA nationals residing in an EU/EEA state). In these cases, the tax assessment via the tax return was also conducted including the foreign income for progression clause purposes.

If a person is not resident for the whole calendar year and has not met one of these exceptional cases, the withholding tax was the final tax. It was not possible to file an annual German tax return.

#### New legal situation as of 2020

As of 2020, non-residents are required to file a German income tax return if they receive extraordinary income that is subject to German withholding tax according to the so-called 1/5th-rule. This rule favours extraordinary income under German tax law. A one-time high income is treated for tax purposes as if the recipient is receiving it evenly distributed over the next five years. This avoids a one-time high tax burden, as due to the tax progression, the tax rate would be significantly higher than if the income would have been spread over five years.

In the case of extraordinary income, employers are generally obliged to determine withholding taxes based on the 1/5th-rule.

#### What does this mean in practice?

The payment of extraordinary income subject to withholding tax based on the 1/5th-rule, in particular, the payment of severance payments and remuneration for activities lasting several years, such as non-cash benefits from employee participation schemes (stock options, RSUs, etc.) leads to a German tax return filing obligation for individuals that were German non-residents throughout the entire calendar year. Within the tax return, foreign income needs to be declared for progression clause purposes which increases the German tax return on the extraordinary income. In most scenarios, this should lead to an additional tax liability throughout the tax return.

#### Example

A non-resident employee exercises stock options in 2020. The benefit in kind amounts to EUR 30,000 and is fully taxable in Germany (vesting period relates to Germany). In addition, the employee has foreign income in 2020 in the amount of EUR 270,000 which is not taxable in Germany based on the double tax treaty.

Withholding tax is calculated by the employer on the benefit in kind of the stock options. Since the extraordinary income is the only income that is still subject to withholding tax in 2020, the withholding tax is EUR 0.00 considering the 1/5th-rule. In years prior to 2020, this would have been the final tax, i.e. no German tax payment on the benefit in kind from exercising stock options.

Due to the newly introduced obligation to file a German income tax return in this case for 2020, the foreign income in the amount of EUR 270,000 will be taken into account so as to determine the tax rate in the German tax return. Consequently, the individual can expect a tax payment throughout the income tax return on the extraordinary income in the amount of approximately EUR 11,900.

### Conclusion

The new regulation may lead to a significantly higher tax burden for the employee. In cases of a tax equalisation agreement, this greater tax burden must be borne by the employer. If the employer provides the employee with a tax advisor, this also extends the engagement to periods after leaving Germany, for example, after the end of an assignment in Germany or during an assignment from Germany to a foreign country.

The employer is also well advised to inform the employee in advance about the tax consequences of this new regulation so that they can fulfil their declaration obligations and are also prepared for an additional tax payment.

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## Hungary



### Guidance to Social Security and Personal Income Taxation concerns regarding the COVID-19 pandemic

As a result of measures taken due to the COVID-19 pandemic, numerous questions have risen regarding the social security liability and personal income tax liability of expats. In many cases they spent – or some of them were forced to spend due to borders being locked down – more time in their home country working remotely from home, while they were supposed to be working in another country.

Is there a change in the personal income taxation or the social security liability due to the involuntary home office working of these expats? Let's see the guideline provided by the local authority (Hungarian Ministry of Finance) and compare it to the proposal of the European Committee and the OECD.

#### Personal income taxation

The most important question to determine which country has the right to tax the income deriving from non-independent activity is the tax residence of a person. Based on the OECD Model Tax Convention – which is the foundation for most double tax treaties – there is a certain order of aspects to consider so as to decide the tax residence of the individual:

1. permanent home;
2. centre of vital interests;
3. habitual abode;
4. citizenship.



1. As for the OECD commentary on the Model Tax Convention, a **permanent home** is a place where the person has established the conditions for a longer period of dwelling. These expats may have an owned house at the country of residence – to which they possibly returned in the pandemic situation – while they might also have a rented house in the country of work. In this case, it is not possible to determine the tax residence.

2. The **centre of vital interest** is the state where the individual's personal and economic relations are closer. At this point, it should be noted in which state the individual's family and friends, the employer, the belongings and the place of work can be found. There could possibly be an example where the expat has economic ties in both countries and the family also moves together with the individual, so there is also a social tie in both locations. According to the opinion of the Hungarian Ministry of Finance, the temporary, extraordinary circumstances caused by the pandemic should not usually result in the change in the centre of vital interests of the employee.

3. The **habitual abode** is the place where the individual usually and frequently stays for a certain period of time. As for the analysis of the OECD issued on 3 April 2020, "*OECD Secretariat analysis of tax treaties and the impact of the COVID-19 crisis*," this point should be considered in a broader context and it should not be affected by a temporary event. On the other hand, the guideline issued by the Hungarian Ministry of Finance has a different view in this regard, and it says that a person staying more than 183 days in Hungary can change the tax residency, which leads to personal income tax liability.

### Social Security

The social security obligation is in the country of work unless the individual's working hours exceeds the 25% limit in another country. According to the opinion of the Hungarian Ministry of Finance, the existing social security status of the individual will not be reviewed due to the pandemic even if there is a change in the proportion of the working time spent in the country of residence. This latter approach is in line with the guidance of the European Committee in cases that could lead to changes in the employee's member state of insurance due to COVID-19.

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## Italy



### The Italian tax regime for "impatriates" – Recent amendments

Under the beneficial tax regime for "*impatriates*" **employment income and related income (e.g. pensions), self-employment income, and business income, if produced in Italy** by workers who transfer their residence in Italy pursuant to Article 2, Italian Tax Code, is taxable **only for 30 per cent of its amount (10 per cent** in the case of transfer to a city of a Southern region, i.e. Abruzzo, Molise, Campania, Puglia, Basilicata, Calabria, Sardinia, Sicilia), subject to the following conditions:

- a) the workers have not been resident in Italy in the two tax periods prior to their transfer and undertake to reside in Italy for at least two years after the transfer; and
- b) the work activity is mainly performed in Italy.

Italian Tax Authorities recently<sup>1</sup> specified that, in the case of transfer to one of the Southern regions previously indicated, the worker will be entitled to the more beneficial regime even if they work in a region other than that of residence, providing they:

- keep their home in the latter,
- return whenever possible; and
- demonstrate the intention to keep the centre of their family and social relations in that region.

Foreign source income or other Italian source income (e.g. financial or property income) is subject to ordinary taxation.

This regime is **applicable for a period of 5 years**. However, it **can be extended for a further 5 years** in the event that:

- the worker (or a qualifying relative), after the transfer to Italy or in the twelve months prior to the transfer, becomes the owner of at least one residential property in Italy. Italian Tax Authorities<sup>2</sup> confirmed that the circumstance of already being an owner of real estate in Italy does not prevent the extension of the regime in the case of the purchase of additional real estate; or
- the worker has at least one minor or dependent child (this prerequisite may exist both before or after the transfer to Italy, provided the child has been born within the expiry of the first five years of application of the regime).

In the case of an extension to the regime, the taxable share of income is increased to 50 per cent in the extension years (but is lowered to 10 per cent if the worker has at least three minor or dependent children).

Workers who moved to Italy before 30 April 2019 have been subject to the former discipline of the "*impatriates*" regime, which did not provide the extension of the tax relief. The 2021 Italian Budget Law<sup>3</sup> extended this option to said workers (provided they become the owner of real estate and have at least one minor or dependent child) after payment of an amount equal to 10% (5% in case of three or more minor or dependent children) of the entire eligible employment and self-employment income produced in Italy, relating to the tax period prior to the one in which the option is exercised.

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For **professional sportsmen**, the taxable share of income is 50%. The election is subject to the payment of a contribution equal to 0.5% of the tax base.

<sup>1</sup> Circular Letter December 28th 2020 No. 33, Para. 4.

<sup>2</sup> Circular Letter December 28th 2020 No. 33, Para. 3.2.

<sup>3</sup> Art. 1, Para. 50, Law December 30th 2020 No. 178

## Russian Federation



### Migration and Personal Income tax updates 2021

As a brief reminder due to the pandemic, the following **migration** documents for foreign citizens with the expired date 15 March 2020 such as: registration certificates, visas, refugee immigrant certificates, temporary residence permits, residence permits and migration cards, has been extended until 15 December 2020 based on the Presidential Decree No. 274 of 18 April 2020.

Founded on the Presidential Decree No. 791 as of 15 December 2020 (hereinafter – “Decree 791”) the abovementioned documents of foreign citizens remain automatically valid until 15 June 2021. This means that foreigners whose documents expired or will expire during the period of 15 March 2020 – 15 June 2021 may continue to stay in Russia safely without violating the migration law.

However, it does concern citizens of countries which renewed regular transportation with Russia before 15 December 2020 or will renew transport links after the entering into force. If you are a citizen of such a country, or have a residence permit in such a country, then your documents are extended for:

- a) 90 full days as of 15 December 2020 if the transportation was renewed before 15 December 2020;
- b) 90 full days if the transportation will be renewed after 15 December 2020.

Please be aware that “renewed transportation” doesn’t mean special flights related to foreign citizens returning to their countries. Thus, on 25 January 2021, the following countries were included in the list with regular transport links renewal: Great Britain, Tanzania, Turkey, Switzerland, Egypt, Maldives, United Arab Emirates, Kazakhstan, Kyrgyzstan, The Republic of Korea, Cuba, Serbia, Japan, Seychelles, Ethiopia, Vietnam, India, Qatar, Finland.

Other important changes are related to the **Personal Income Tax** of tax residents of the Russian Federation. Starting from 1 January 2021, the tax rate is progressive (in particular 13% and 15%). **Threshold of taxable personal income is 5 million roubles** (approx. EUR 55,600 applying the average exchange rate 90 RUB per EUR). The Russian government will use this additional 2% increase in personal income tax to treat children with rare diseases.

These changes will affect the following types of income of Russian tax residents (including foreign individuals who obtain this status): wages of individuals, dividends, coupon income on bonds, incomes from securities, etc.<sup>1</sup>

The procedure of withholding tax by tax agents (i.e. employer, broker, issuer of securities) still remains the same. If the tax base of the individual’s income exceeds the threshold starting from 1 January 2021, then the tax agent will apply the 15% rate for an income that exceeds the mentioned threshold.

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You should note that there is no requirement for an employer or other tax agent to check if the individual receives other incomes from other sources. If the income received by the individual from each particular source does not exceed the threshold, then at the end of the calendar year the tax authorities should independently calculate personal income tax related to the annual income of an individual from different sources and, in the case of total income exceeding the threshold (i.e. 5 million roubles), then a tax notification will be sent to the individual requesting payment of an additional 2% of underpaid tax.

## Senegal



### Shall a foreign employee, assigned to Senegal to perform a contract signed between its employer and a local company for less than 90 days, file personal income tax in Senegal?

It depends on whether there is a Double Tax Treaty (DTT) between Senegal and the country where the employee assigned resides.

#### **1. If there is a DTT between Senegal and the country of residency**

Article 48 of the Senegalese Tax Code provides that, unless otherwise regulated by DTTs, any individual whose tax domicile is located abroad (outside Senegal) is, whatever their nationality, liable to income tax for their income that is derived from Senegal.

In most DTTs signed by the Senegalese Government, no personal income tax shall be filed in Senegal when the foreign employee stays less than 183 days in Senegal. That is the case when the employee is from Belgium, UK, Italy, Luxembourg, etc. ...

#### **2. If there is no DTT: a German employee assigned to Senegal**

##### **2.1 Based on the Senegalese Tax Code**

Article 164.2.b of the Senegalese Tax Code regulates that the salaries and wages paid to employees domiciled abroad (outside Senegal) are taxable in Senegal provided that:

- the employer is domiciled or established in Senegal; or
- the paid activity is carried out or performed in Senegal.

The same provisions are stated by the Tax Authorities in written opinions, notably the letter of the General Director of the Tax Office n°814 MEFP/DGID/DLEC/BL.F.DIR dated 20 June 2016.

Since there is no DTT between Senegal and the country where the foreign employee is coming from, the activities performed in Senegal by said employee are subject to personal income tax according to the above-mentioned Article 164 of the Senegalese Tax Code.

##### **2.2 The difficulties or hindrance, in practice, in submitting the personal income tax return for foreign employees who are staying in Senegal for a short period of time**

In the scenario that the Senegalese company is not paying the salaries to the employee and under the assumption that the employer that is paying the salaries is not established in Senegal, neither the foreign company nor the Senegalese company shall be obliged to withhold the tax that the employee shall pay in Senegal.

The employee shall file their personal income tax personally for themselves and on their own behalf. However, to do so, they must register with the Senegalese Tax Office and obtain a tax identity number, which is not particularly practical to fulfil given the short time of the stay in Senegal.

That is why most of the foreign employees do not file personal tax returns and the tax administration is not particularly strict in this regard. That said, some foreign employees do decide to file.

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From our experience, we have never seen or witnessed a direct tax control that has caused an adjustment here.

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**Nota bene:** By tolerance of the administrative authorities, a foreign employee who performs a mission by its foreign employer for less than 90 days neither needs a work permit in Senegal nor a residence permit under the immigration law.

## Sweden



### Sweden adopts the Economic Employer Concept and expands companies' obligations to make tax deductions as of January 2021

#### Economic Employer Concept

Due to new rules, the threshold for becoming tax liable has been lowered for foreign employees who are temporarily working in Sweden. Moreover, the reporting obligation for foreign employers has increased as well as the exposure in view of corporate tax liability.

Up until 1 January 2021, Sweden applied a formal employer concept. Employees with limited tax liability employed by a foreign company without a permanent establishment in Sweden would not be taxed for work performed in Sweden, provided their stay did not exceed 183 days over a twelve-month period. Today, under this new legislation, this same employee could be taxed in Sweden if the work benefits a Swedish company or a Swedish permanent establishment. Work benefits a Swedish entity if the employee is made available to perform work in Sweden and is under the management and control of the Swedish entity. Foreign short-time workers in Sweden may however be exempt from Swedish tax liability if the work is executed for a maximum of 15 consecutive days and the total work-days in Sweden do not exceed 45 days in a calendar year.

It should be noted that these new rules also cover arrangements where the costs for an employee are invoiced by the foreign formal employer to a company within the same group that conducts business in Sweden. When determining the economic employer, the financial terms between such group companies are one of the many factors that are considered. Often, the company which in the end bears the majority of the employer's costs is considered to be the economic employer. Therefore, internal group relationships should be reviewed, as these relations may be affected by the new rules.

These rules further entail that foreign companies without a Swedish permanent establishment will be responsible to deduct and report Swedish tax on the remuneration paid for work performed in Sweden. Thus, the foreign company must register as an employer in

Sweden. There will be no option to transfer this responsibility to a Swedish entity. Moreover, upon request, such a foreign company must provide specific information to the Swedish Tax Agency (STA) so that the STA can determine the company's tax liability in Sweden.

#### Expanded obligations for making tax deductions

As of January 2021, new rules obligate Swedish companies to make tax deductions of 30 per cent on payments to foreign companies for work performed in Sweden. If the foreign company is not subject to Swedish taxation, the STA will reimburse the tax withheld at source once the company's tax liability and final tax has been determined. This can take some time, and to avoid such a situation the foreign company has three options:

- apply for approval for Swedish F-tax,
- request a decision on the exemption from tax deductions or
- apply for a special calculation basis or for early repayment.

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## The Czech Republic



### Taxation of income from employment and entrepreneurship since 2021

As of 1 January 2021, the concept of taxation of personal income from employment changed in the Czech Republic. The structure of the tax base goes back 13 years and will again consist of only gross wages. In the years 2008-2020, the statutory insurance premiums paid by an employer were also added to the employee tax base – in some years actually paid – but in most years only determined according to the Czech or, later, also foreign legal regulations.

Since the beginning of 2021, there have also been minor changes in the method of taxation applicable to all taxpayers. Personal income tax rates are 15% on income corresponding to 48 times the average wage (for the year 2021 the limit applies to approximately CZK 1,700,000, i.e. EUR 65,000), and from the above-mentioned limit, it is necessary to apply a 23% tax rate. It is certainly worthy of note that the same limit also applies as the maximum base for social insurance premiums paid from income from employment and entrepreneurship.

At the same time, the taxpayer tax rebate was increased. Even in 2020, this discount amounted to CZK 24,840 (EUR 950) per year; for 2021 it has been set at CZK 27,840 (EUR 1,070) per year, and for 2022 it will be increased to CZK 30,840 (EUR 1,190) per year. In the following tax periods, the taxpayer tax rebate should start to decrease again.

A complete novelty, which applies for the first time in 2021, is the so-called flat tax. It was introduced as a voluntary option for entrepreneurs who register for this form of taxation no later than 10 January of the given calendar year. The flat tax currently amounts to CZK 5,469 (EUR 210) per month and includes both income tax and social as well as health insurance premiums for entrepreneurs. The conditions for applying for the flat tax are as follows:

- Business revenues in the amount of CZK 1 million (EUR 38,500)/year at maximum,
- No income from employment,
- Other income in the amount of CZK 15,000 (EUR 580)/year at maximum,
- The applicant may not be a VAT payer,
- Insolvency proceedings may not be instituted against the applicant,
- The applicant may not be a partner of a public company or a limited partnership.

The main advantage of the flat tax is the abolition of administrative obligations associated with the completion of declarations and statements and the payment of one amount per collection point. The advantage of using the flat tax must be considered individually, taking into account other circumstances, such as the remuneration for the services of a tax advisor or the need to monitor compliance with the conditions during the taxable period which is a calendar year.

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