Mobility: tax alert
April 2018

Slovenia

Changes in conditions and taxation of posted workers

Executive summary
New regulations affecting employers who post workers to and from Slovenia entered into force from 1 January 2018.

The conditions place the burden on employers to ensure that workers have timely applied for social security certificates of coverage as well as for work registration in Slovenia. Fines of up to Euro 60,000 can be issued for foreign employers who do not comply with the regulations.

The regulations also introduce new tax benefits for workers posted to Slovenia including a deduction of up to Euro 1,000 in taxable pay each month and provisions outlining when reimbursed business expenses are not taxable during short term assignments.

Key points

The three main objectives of the Act are for:
► harmonization of national regulations and practices with EU regulations,
► prevention of abuse and violation of posted workers' rights, especially:
  ► prevention of so called "social dumping" where foreign service providers of labour can undercut local service providers due to lower national labour standards and
  ► prevention of the multiplication of “mail-box” companies that use posting as a way to circumvent employment rules
  ► setting of measures and control mechanisms to prevent and sanction any abuse and circumvention of the applicable rules.

The Act determines the same basic conditions for foreign employers who wish to post workers in Slovenia and as for Slovenian employers who wish to post workers in other EU member state.

► Both foreign employers and Slovenian employers may provide cross-border services if conditions are met and Slovenian employers may perform cross-border services in another EU member state under certain conditions.
► Slovenian employers should obtain an A1 certificate of coverage applicable for EU member states as per EU regulations on Social Security.
► Foreign employers may perform cross-border services in Slovenia for which certain supporting documents should be available, including an A1 certificate of coverage.

Issuerance of an A1 certificate in Slovenia
For posting workers from Slovenia abroad, where appropriate, application of an A1 certificate should be completed no more than 30 days before the posting
start date (by means of an electronic system, eVem). Slovenian authorities should issue the respective A1 within 5 working days provided all conditions are met.

Slovenian authorities do not issue retroactive A1 certificates and assignment planning should ensure that an A1 certificate is obtained on time.

Obligations of foreign employers and posted workers to Slovenia
Foreign employers are required to apply for work registration prior to the commencement of any assignment, which will also be considered a posting declaration. The posted worker must have an A1 certificate issued by the competent social security institution in the country of employment, from their first day of work in Slovenia.

During any assignment, the foreign employer must appoint a contact person in Slovenia who will be the main contact for labor inspections and who has access to all supporting documentation related to the posting. The documentation can be requested by the Inspectorate within 24 months after the posting concludes.

Fines and penalties
Non-compliance with obligations in the Act could trigger financial penalties for a foreign employer from EUR 2,000 to EUR 60,000 and for the foreign employer responsible contact from EUR 600 to EUR 2,000.

Changes related to taxation of posted workers
As a consequence of adoption of the Act the government has adopted changes to the Personal Income Tax Act (the “Tax Act”), which came into force on 1 January 2018.

Under certain conditions to the renewed Tax Act, posted workers are entitled to benefit from a reduced taxable base of 20% of monthly income, up to a maximum of EUR 1,000 per month.

This reduced taxable base only applies to income paid out for a posting between 30 days and 60 months (in the last 10 years from the first posting of the worker).

For short term assignments, the Tax Act will allow some reimbursement of employee costs to be considered as non-taxable income. This benefit was adopted following guidance issued by the Minister of Labour, Family, Social Affairs and Equal Opportunities where a business trip for Slovenian tax purposes has been clearly defined for the first time.

Next steps
Slovenian and foreign employers should be made aware of new obligations arising from the Act and ensure that populations of posted workers are covered by valid A1 certificates for the entire working period and should follow prescribed timeframes and procedures to apply for and obtain A1 certificates.

Employers should be made aware of the tax benefits available for workers posted to Slovenia where conditions for that are met.

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