HR and tax alert

Brazil/Canada
Social Security Totalization Agreement

Executive summary
The Social Security Totalization Agreement between Brazil and Canada (the “Agreement”) came into force with effect from 1 August 2014.

The purpose of the Agreement is to ensure that employees and their employers fall under one country’s social security law, avoiding instances of double social security liability arising. Under the Agreement, individuals assigned between Brazil or Canada may remain within their home country social security scheme, provided the conditions of the Agreement are met.

The Agreement addresses the transfer of pension benefits and equality of treatment of individuals covered by the relevant legislation of both countries.

Key features
1. Benefits covered
The Agreement applies to the following benefits:
   ▶ Brazil – The laws governing the act on Social Insurance in respect of age, disability and survivors pension insurance.
   ▶ Canada – The rules governing the Old Age Security and the Canada Pension Plan programs.

2. Secondments and certificates of coverage
In certain circumstances, Brazilian or Canadian employers may now be able to obtain certificates of coverage for assignments up to five years commencing after the Agreement entered force. Such a certificate will ensure that the employer and employee are exempt from those social security contributions in the host country which are covered by the scope of the Agreement.

To qualify for exemption under the new Agreement, the anticipated duration of the secondment must not exceed five years. The Agreement applies to any person who is or has been subject to the legislation of either Contracting State, and individuals who acquire rights from such persons within the meaning of the applicable legislation of either party.

3. Totalization of periods of coverage
The Agreement allows individuals to aggregate periods of coverage in Brazil and Canada, if required, in order to qualify for pension benefits of either of the two states. This means that the period of contribution in one country will be added to the period
contribution in the other country for determining the eligibility of benefits.

Next steps
It remains to be seen how the practice of inbound and/or outbound secondment will be developed in Brazilian immigration and/or labor regulations, as Brazil now has many totalization agreements which rest upon structures that are not currently clear in the domestic legal environment. Companies with employees seconded between Brazil and Canada should urgently review how this Agreement might affect current and future social security liabilities and costs.

In particular, employers should:

- Review the terms of planned assignments to ensure they will be eligible for coverage under the Agreement, and the impact this will have on assignment costs.
- Where relevant for both current and future assignments, begin the process of applying for certificates of coverage from the appropriate authorities.
- Review current payroll withholding processes to ensure payments are correct following the introduction of the Agreement.
- Consider any communication to employees affected by the Agreement.
- Review the impact the introduction of the Agreement will have on existing secondment policies.

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