

Human Resource Services

News from the Nordic countries



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Introduction

We hereby provide you with the second Nordic HRS Newsletter. A topic of interest in international tax rules is determining "tax residence". In this Newsletter we discuss recent developments in Norway and Sweden in this respect. Furthermore, the news from Denmark illustrates the reporting obligations for employers when expatriating employees. Finland brings news on the tax consequences of an employer covering a tax liability on behalf of the employee. For more information on how this news affects your expatriates, please contact your local PwC office. Erland Nørstebø, partner HRS

Norway – Ruling Supreme Court on residence

The Norwegian Tax Authorities have for years advocated a restrictive interpretation of the residence rule in Double Tax Treaties. Expatriates have been deemed to have a permanent home in Norway, even when the home was rented out. Based on this, Norway continues to tax the global income of the individual also during the assignment abroad. The authorities have also claimed that no permanent home has been established in the host location when the employment abroad is temporary, even if the period abroad was for example 3 years. In its recent ruling, the Court concluded for a specific case that (i) renting out the house in Norway for some considerable time excluded the home from being a permanent home according to the residence rule and that (ii) no specific period is required for establishing a permanent home in the host location.

Denmark – Reporting obligations for foreign companies

As from 1 May 2008, a foreign company is obliged to report on employees expatriated to Denmark. The reporting can be given on a form available also in English at www.virk.dk. The reporting is due when the activities performed by the expatriated employees commence.

Any changes to the reporting must be submitted within 8 days after the employee starts working in Denmark. The reporting obligation is not applicable for expatriation of employees as part of the delivery of a technical plant or installation or activities with duration of maximum 8 calendar days. However, the above exception does not apply for activities within the construction industry. Failure to report, to report timely and provision of inadequate reporting is punished with a fine.

Sweden – Statement Tax Authorities on residence

An individual who moves abroad from Sweden maintains a resident tax status if he keeps strong ties to Sweden. This means that Sweden continues to tax the global income of the individual. Over the last years, case law has deemed "summer cottages" situated nearby Stockholm, with the same standard as ordinary primary residences and of considerable values not to constitute such strong ties. In a written statement, the Swedish Tax Authorities claim that case law maintaining a summer cottage or a primary residence needs to be harmonised (because primary residences generally grant strong ties). The Tax Authorities further indicate that case law in this aspect should move towards what applies for summer cottages and, should the primary home in Sweden be the only tie kept, the individual should not be granted a tax resident status for more than five years, unless there are other such circumstances.

Finland – Ruling Supreme Court on net salary / hypo tax policy

Based on Finnish tax law, the amount of income tax paid by the employer on behalf of the employee - exceeding the original tax withholding from the employee's compensation - is to be considered as taxable compensation. Until recently, the Finnish Tax Authorities have applied the so-called cash principle, i.e. that the tax payments on behalf of the employee have been regarded taxable for the tax year during which the employer has paid the taxes to the Tax Authorities. However, based on the recent ruling, it will be considered taxable in the tax year in which the salary was earned and the withholding was made.

There is not yet guidance on how this should be done in practice, but the Finnish tax authorities are expected to give instructions to this matter later during the year 2008.

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