

Germany: Recent changes to core social security principles applying to mobile workers

May 14, 2020

In brief

Guidance describing how social security principles apply to the assignment of employees to and from Germany recently has been revised. This *Insight* describes some of the current changes and their significance for employers with mobile workforces.

In detail

Background

A joint statement issued by the head organizations of the German social security system addresses the assessment of posted workers under social insurance law. Principles applying to both inbound and outbound workers are available under national German law (§§ 4 and 5 German Social Security Code IV). These regulations contain guidelines describing when posted employees on temporary assignments abroad are still subject to German social security, or the extent to which employees posted to Germany possibly may be exempt from German social security obligations.

The joint statement is primarily addressed to the insurance institutions and employers affected by the regulations and is intended to ensure a uniform application of the law. However, the joint statement, which was last published on November 18, 2015, was revised to provide practical advice and suggestions. In the process, some additions were made, particularly with regards to postings within affiliated companies.

Revisions to the joint statement

Changes include the following:

- If a company is an 'economic employer' within a group of companies, such status will be lost (for the future only) if the employment relationship is wholly or predominantly passed on to the foreign-based company or is directly borne by it. Previously, the language referred to 'wholly or partially' passed on.
- For the first time, guidance describes that even in the case of foreign assignments by persons living outside Germany without previous employment in Germany, the existence of a posting within Germany may arise if, among other things, a subsequent employment with the posting company in Germany is intended.

To protect reasonable expectations, no objections will be raised by the government to the assessment under insurance law for the duration of employment in those cases where (i) the revised joint statement results in a different assessment than before, or (ii) a different understanding of the legal situation could be assumed up to now.

The takeaway

Employers should evaluate whether the amendments cause more employees to be subject to compulsory German social security insurance when working abroad than in the past.

In the case of inbound workers, the host companies in Germany should confirm whether more employees can be exempted from the German social security regulations than in the past.

In individual cases, the new regulations also may have consequences for postings to and from countries with which Germany has concluded a social security agreement.

Let's talk

For a more detailed discussion about this issue, please contact your PwC Global Mobility Services engagement team or the following professionals:

Global Mobility Services – Germany

Ulrich Buschermoehle
+ 49711250343220
ulrich.buschermoehle@pwc.com

Global Mobility Services – United Kingdom

Leo Palazzuoli, *Global Leader*
+44 7738 310312
leo.palazzuoli@pwc.com

Global Mobility Services – United States

John Shea, *US Leader*
+1 (310) 809-9234
john.w.shea@pwc.com

© 2020 PwC. All rights reserved. PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see www.pwc.com/structure for further details.

This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 158 countries with over 250,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com.