

COVID-19

Tax issues for individuals who will be working in a country other than they usually do

23 March 2020

FAQ ABOUT TAX ISSUES ETC. FOR EMPLOYEES AND EMPLOYERS IN RESPONSE TO COVID-19

In light of the imposed travel restrictions and other measures aimed at limiting the spread of Covid-19, we offer the following FAQ for employers and their employees. The FAQ provides answers to the tax and social security queries following from some employees working in another country than they normally do. We hope that this FAQ answers many of the questions that will arise in the time to come. The list is not exhaustive.

We are ready to provide in-depth and specific advice. You can find our contact information on the last page.

QUESTION	GUIDELINE ANSWER
WILL DANISH TAX EXEMPTION BE FORFEIT?	
Can employees who are tax exempt in Denmark pursuant to Section 33(A) of the Assessment Act stay in Denmark for more than 42 days inside a rolling six-month period now that they are encouraged to return to Denmark?	Yes, it is of course possible to stay in Denmark. Unfortunately, the tax exemption is forfeit counting from the beginning of the stay in Denmark leading to more than 42 days' stay in Denmark. The tax exempt status is also forfeit if work is carried out in Denmark which is not related to the work outside of Denmark.
Will they be liable for full tax in Denmark of the salary?	No - if the employee is a tax resident in Denmark, the employee can, as a general rule, receive a reduction of the Danish tax by the tax to be paid in the country of work.
Can anything be done?	Yes, it can be investigated whether the employee's tax domicile can be moved to another country if there is a tax treaty between Denmark and the other country. This is not the case for several zero-tax countries in, for example, the Middle East and for Spain and France.
Are there any other options?	Yes, the employee can stay in another country.

QUESTION	GUIDELINE ANSWER
<p>Do any tax-related consequences arise from letting the employee stay in another country?</p>	<p>Yes, in relation to longer-term stays the employee can become fully tax liable in the other country, irrespective of the fact that the employee does not "live" there. If the employee also performs work there, a so-called establishment can have arisen. This can have wide-reaching consequences for company tax and reporting about company affairs. An obligation may also arise for the company to register as an employer and both withhold and settle A-tax and to pay the employer's share of social contributions.</p>
<p>Will full tax liability arise?</p> <p>Can expatriate employees with suspension of full tax liability return home and stay here without becoming fully liable for tax and therefore having to pay tax in Denmark?</p>	<p>This will depend on a specific assessment.</p> <p>As a guideline, a stay not exceeding three months combined with no access to a specific permanent residence will probably not result in the event of full tax liability. Employees with such conditions are encouraged to seek specific advice to determine the specific consequences. Especially if one also has a share deposit in free funds as a subsequent cessation of full tax liability can lead to vacating tax on any capital gains which in reality is just an increase in the stock markets away from the very low current level.</p>
<p>Will the researcher tax scheme be forfeit?</p> <p>Will a stay in Denmark which leads to full tax liability for a shorter period ruin the option to later return to Denmark and be taxed according to the tax scheme for foreign researchers and highly paid employees?</p>	<p>Yes, this can be the case.</p> <p>The rule is that one must not have been liable for tax in Denmark for a period of ten years prior to returning and seeking to be taxed according to the researcher scheme. As a consequence, the occurrence of full tax liability for even a short Covid-19-related stay in Denmark will mean that accumulated years will be forfeit and a new ten-year period has to commence and complete after the cessation of full tax liability.</p>
<p>What does the 30 day rule mean for the researcher tax scheme?</p>	<p>If an employee, who lives in Denmark with their family and works here for a so-called permanent establishment of a foreign company, travels to a country in which the foreign company is resident and stays there for more than 30 days, the future right to the researcher tax scheme is forfeit if the right to tax the salary is transferred from Denmark to the other country.</p>
<p>What is required to retain researcher taxation when work is only sporadically carried out in Denmark and the employee is not a permanent resident in Denmark?</p>	<p>It is possible to be taxed in accordance with the researcher tax scheme with so-called limited tax liability, i.e. even if you do not live in Denmark. Retaining limited tax liability status requires work stays in Denmark of at least 1-2 days per month. If this is not satisfied, there will be no taxation in Denmark. The employee can re-enter the researcher tax scheme at a later date when the requirement is satisfied. The salary is presumably taxed in the country of residence.</p>

QUESTION

GUIDELINE ANSWER

What will happen if the salary requirement is not met due to forced holiday, forced salary reduction or the like?

If the salary requirement is not satisfied in the individual month or an annual basis, the right to continued taxation under the scheme may be forfeit. Specific advice should be obtained before making a decision.

SOCIAL SECURITY

What does it mean for Danish companies if their employees have left Denmark and in the coming time perform remote work with their family abroad?

The general rule for such employees is that they are covered by Danish social security, as they are expected to have worked at least 75% of the time in Denmark and therefore less than 25% of the time in the home country.

Since such employees will in the coming time stay and perform work abroad, they can become covered by the home country's social security schemes if they work there more than 25%. This means that the Danish employer will also be obligated to pay the other country's employer contributions. In countries such as Sweden, Norway, Germany, France, Italy and Spain, these are significantly higher than in Denmark (up to 35% of the employee's salary).

The employee's work in the home country can also give rise to the issue of permanent establishment in the home country.

ØRESUND

Will there be any consequences from a commuter resident in Denmark and subject to SINK taxation in Sweden working from home in Denmark in the coming time?

Yes - if Sweden does not retain the right to tax the salary, Sweden is unable to perform the SINK taxation and the employee will end up paying Danish tax.

If the employee does not work at least 50% of the time in Sweden (measured over a three-month period), the employee can no longer be covered by Swedish social security and will therefore lose the right to tax exemption in Denmark pursuant to the exemption method. This method means that the employee in reality is not paying Danish tax of their salary from their Swedish employer. It can also mean that the employee is no longer only taxed in Sweden on the salary.

The issue of permanent establishment in Denmark for the Swedish employer may also arise when the employee works in Denmark.

Will there be any consequences from a commuter resident in Sweden working from home in the coming time?

If the employee does not perform at least 50% of the work in Denmark (measured over a three-month period), the employee will transfer to social security in Sweden where the employer contribution is at least 30% of the employee's salary.

In terms of tax, this can mean that the employee is no longer only taxed in Denmark on the salary.

The issue of permanent establishment in Sweden for the Danish employer may also arise when the employee works in Sweden.

QUESTION

GUIDELINE ANSWER

Which days are included as workdays in the employer country?

In a ruling from 2019, the Tax Assessment Council stated as follows:

- Sickness days and holidays spent in the country of residence are included as workdays in the employer country.
- Weekends and time off in lieu and Swedish and Danish holidays are not included in either Denmark or Sweden.
- Part of a day in, e.g., Sweden is included as a workday in Sweden, even if work is also performed in Denmark, and vice versa.

GERMANY

Will there be any consequences from a commuter resident in Denmark who has normally worked in Germany working from home in Denmark in the coming time?

Yes - if Germany does not retain the right to tax the salary, Germany is unable to perform the taxation and the employee will end up paying Danish tax.

If the employee ends up working at least 25% of the time in Denmark (measured across a three-month period), the employee can no longer be covered by German social security and will forfeit the right to tax exemption in Denmark pursuant to the exemption method which means that the employee is in reality not paying Danish tax on their salary from the German employer.

The issue of permanent establishment in Denmark for the German employer may also arise when the employee works in Denmark.

FURTHER INFORMATION

Please contact us if you need further advice



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