

Tax Alert

The EU-regulation 883/2004 – new EU social security coordination rules applicable in case of cross border employment

In principle every country has its own social security regime and its own social security rules. To promote internal mobility, Regulation 1408/71 was introduced in the seventies. This Regulation does not provide a unified European social security regime but rather a series of designation rules to determine which social security is applicable in the event of cross border employment.

A new EU Regulation 883/2004 will introduce a number of changes as to the social security position of the employee. We remark, however, that the basic principles of the current EU-regulation 1408/71 will be maintained.

The major changes are:

- for mobile workers who are performing employment duties in the country in which they reside and in at least one other member state on account of the same employer, there will be a requirement for substantial employment in the home country in order to be subject to the social security scheme of that country (25%-rule of his work time or remuneration).
- individuals who are simultaneously employed in one member state and self-employed in another member state will no longer be insured in more than one member state at the same time. Due to the annulment of the "annex VII" rule, member states can no longer impose an additional

subjection for the self-employed activities performed on their territory.

- in case of secondment the initial period will be 24 months instead of 12 months with a possibility of prolongation with another 12 months under the current EU-Regulation.

This new set of rules on the coordination of the EU social security schemes may thus have a significant impact on the social security positions of your employees working in one or more countries of the EU.

The EU Regulation 883/2004 also provides for a 10-year transitional period during which the existing employment situations remain covered by the former EU Regulation 1408/71 unless the employee explicitly requests for the application of the new set of rules.

The EU Regulation 883/2004 may thus create some optimisation opportunities should this Regulation result in the application of a more cost-advantageous social security system rather than the one currently in place.

The new rules are expected to enter into force as from May, 1st 2010.

Should you require further information on the implications of the new EU Regulation 883/2004, please do not hesitate to contact us.

Contact

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