

RESUMÉ IN ENGLISH

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Expatriate Taxation

With globalisation increasing, the tax aspects connected to the free movement of employees around the world are of particular importance to companies with subsidiaries around the globe. The goal of my thesis is to explore the risks involved in expatriate taxation. The first chapter is dedicated to the definition of the terms employment and secondment from the point of labour law, European social security coordination law and tax treaties. I think that the main characteristic of employment consists in the fact that it is the opposite of entrepreneurialism. The second chapter explores the general function of taxation, double taxation and its avoidance by bilateral tax treaties. Chapter three introduces the reader to discrimination in trans-border income tax cases and analyses the Schumacker ruling of the European Court of Justice, as a result of which tax reliefs can now be claimed in the European Union by non-residents, provided that 90% of their income originates from employment in the country that provides for such tax reliefs to its own residents. Chapter four discusses the definition of tax residence, the determination of residence under the Czech Income Tax Act and establishes when individuals are considered tax residents due to, inter alia, domicile or habitual abode. Chapter five is dedicated to dependent personal services pursuant to Article 15 of the OECD Model Tax Treaty, i.e. the recipient of remuneration is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, the remuneration is paid by, or on behalf of, an employer who is not a resident of the state where the work is performed and no permanent establishment is triggered. Chapter six explores the prerequisites for a permanent establishment to be triggered and its consequences using secondment from the Czech Republic to the Russian Federation as an example. Chapter seven discusses the characteristics of cross-border hiring of employees as opposed to secondment. Chapter eight to eleven analyse the tax consequences of expatriate income in the Czech Republic, Germany, the Russian Federation and the People's Republic of China respectively. Chapter twelve gives an insight into tax clauses in secondment agreements and Chapters thirteen discusses the social security aspects of seconding individuals to other countries and offers the reader the hypothesis that social security premiums are a type of tax. The thesis concludes by stating that the primary goal of an expatriate to remain subject to his/her home country social security system conflicts with the tax goal to avoid triggering a permanent establishment. That is why, in practice, the cross-border hiring out of employees and

localisation combined with expatriate benefits and a return clause have become more appropriate instruments of free movement of employees than classical secondment.