

Expatriates assigned to your Russian office. Russian taxes payable.

“It is obligatory for the assignment documentation to comply with the Russian labor law and your office should accrue Russian social security taxes.”

“Is it? The expats have contracts with our head office and we do not pay anything to them in Russia. They participate in the home country social security plans.”

It is quite a usual dialog of a consultant and management of a Branch or Rep. office (let's call it Branch further) of a foreign company.

It is true that an individual assigned to the Branch or employed through the Branch is supposed to be employed by the foreign company, i.e. the Branch is a place of work rather than an employer of the individual. However, the place of work obliges the employer consider local legislation and in Russia's case the employer should take into account requirements of the Russian Labor Code and immigration legislation which respectively require compliance of the assignment documents to the Russian laws and obtaining of a Russian work permit.

Compliance to the Russian labor legislation means that the employer is obliged to follow the Russian rules on employment, dismissal, compensations and guarantees which, in case of employer's non-compliance may any time be enforced by the expatriate in Russian court.

Besides, considering that work of an expatriate in Russia is deemed to be governed by the Russian labor legislation what means work *“under a (Russian) labor agreement”* the Russian tax legislation requires accrual of social security taxes on the expatriate's income despite the expatriate's nationality, Russian tax residence status and place of income payment.

The Russian social security tax is to be accrued on all income (including in-kind, e.g. provision of free of charge meal and housing) and compensations (e.g. housing, personal car and personal mobile calls) stipulated in the employment agreement or obligatory for payment under the Russian labor legislation except the following (probable for payment to expatriates):

- Business travel and relocation allowances paid in accordance with the Russian legislation and within the statutory norms;
- Sick leave and relevant allowances paid from the Social Insurance Fund and within the statutory norms;
- Redundancy allowances paid within the statutory norms;

Social security taxation with respect to foreign nationals will include the Russian Unified Social Tax and Industrial Accident Insurance contributions.

Please note that in respect of the foreign nationals, having received Russian residence permit (similar to Green Card in the USA), Pension insurance contributions should also be accrued and paid.

Social security taxation payable by the Branch is applicable only to income attributed to the foreign national employees' work in Russia. Therefore, in order to avoid arguments with the tax authorities the amounts of income attributable to Russia should be properly documented (e.g. assignment letter, internal foreign personnel policy, document on split of expenses, the Branch tax accounting policy and etc.). The documents may also be used to confirm “Russian” income for individual income tax purposes.

In addition, a Branch is considered a tax agent in respect of the expatriate's individual income tax and in case no payments are made from the Branch's account is, obliged to report to the Russian tax authorities on income paid and tax accrued but not-withheld in respect of the expatriates.

So, absence of payments in Russia does not mean absence of tax obligations in respect of expatriates. Violation of the rules may result in severe penalties.

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