

INTERNATIONALLY MOBILE EMPLOYEES



Overview

The UK has for some time been the destination of choice for internationally mobile individuals. As more companies look to the global talent pool when they require specialist skills, it is becoming increasingly necessary for smaller companies to consider the complex tax, social security and HR issues which can arise when employing the services of individuals relocating from other jurisdictions, be it temporarily or for longer term assignments.

Throughout its 85 years in operation, Rawlinson & Hunter has been at the forefront of providing tax and accounting advice, with an international dimension, to private clients and entrepreneurial businesses. We have developed a dedicated Employment Solutions Services (“ESS”) team to assist companies and their employees navigate the complex areas of tax, National Insurance (social security), PAYE and HR which can arise with Internationally mobile employees (“IMEs”). Our ESS team has an outstanding breadth of skills and expertise in these areas, with the emphasis placed on providing a personal service which is tailored to the particular requirements of each of our clients.

This briefing seeks to highlight some common areas arising for IMEs where we are well placed to assist.

Review of Employment Contracts

Before an employee moves to the UK it is important their contract of service has been drafted with UK tax and National Insurance in mind. The wording in the contract is the first step to ensuring the employer/employee relationship has been structured efficiently for both parties to ensure the terms are fair and avoid unintentional consequences which could result in more tax or National Insurance being paid than would otherwise have been necessary.

Our ESS team are well acquainted with employment contracts for IMEs and can review the contracts before execution to ensure any pitfalls are avoided.

EMPLOYMENT SOLUTIONS

April 2018

Residence Status of Workers

The first step in determining the tax treatment of remuneration paid to an IME coming to the UK is to ascertain their UK residence position. The government introduced a Statutory Residence Test (“SRT”) from April 2013 which, whilst complicated, allows IMEs to determine with certainty their UK residence position.

In particular, under the SRT, IMEs arriving in the UK part way through a tax year may not become resident until the 6 April following or may be able to ‘split’ the tax year. Analysing this position correctly can mean significant tax benefits in the year of arrival of the IME and can allow reliefs which apply only for a set number of years once resident in the UK to continue for an additional year.

Similar considerations apply when an IME leaves the UK and it is all too easy to poorly structure the departure from the UK giving rise to unnecessary taxation.

The ESS team has extensive knowledge of the SRT and can advise both on the general residence status of IMEs and on the subtle changes which can make all the difference from a tax perspective.

Overseas Workday Relief (“OWR”)

OWR is a valuable relief which generally applies to IMEs in their first three years of residence where they perform part of their duties outside the UK.

In order to benefit from OWR, it is important that eligible IMEs are aware of the practical requirements of organising salary payments, operating a non-UK bank account and how to bring money tax efficiently to the UK. Our ESS team will smoothly guide the IME and their employer through the process so they feel comfortable with the operation of this generous relief.

Employee Benefits

The UK has a complicated system for taxing benefits offered to employees, but there are exemptions available specifically for IMEs, particularly relevant are reimbursed relocation and travel expenses. Understanding these rules and ensuring benefits are correctly included in the IMEs employment contract are essential to guarantee a comprehensive, tax efficient remuneration package.

Remuneration Incentives

Many IMEs will receive remuneration outside of their standard salary be it in the form of cash bonuses or the receipt of shares or share options. Remuneration of this kind can have complicated tax implications for domestic employees and these complications are amplified for IMEs. Our ESS team can provide specialist advice to the employer and IME to ensure remuneration of this kind is arranged efficiently and that all reliefs available have been considered.

Equally, IMEs arriving in the UK with share awards from previous non-UK employers which vest whilst in the UK need to be aware that the awards may come within the scope of UK tax. This is frequently overlooked and can have disastrous tax consequences if not reviewed as part of the pre-arrival tax planning.

Tax Equalisation

Often IMEs who come to the UK will be offered a remuneration package where they are tax equalised such that their net salary after accounting for tax and national insurance is equal to what they would have received if working in another jurisdiction. With the UK’s complicated system of tapered personal allowances and tiered tax and National Insurance rates, salary calculations

can necessarily become very complex. R&H has invested in creating our own bespoke software package to calculate the appropriate equalisation adjustments which, when combined with our highly numerate staff, ensures we can offer this service quickly and in a cost effective manner.

National Insurance Contributions (“NICs”)/Social Security

NICs (the UK’s equivalent of social security payments) are frequently overlooked when employing IMEs. Whilst NICs are often viewed as simply an additional tax in the UK, the law which governs how they are charged is entirely separate from that of tax and interacts both with EU law and a separate set of international agreements.

IMEs may not be chargeable to NICs immediately on coming to the UK depending on the position in their home country particularly if they are moving to the UK from the European Economic Area (EEA) or countries with which the UK has a reciprocal social security agreement. This can have additional and material consequences for the employer as it may not be liable for Employers NIC (presently 13.8%).

Equally, when an IME pays NIC in the UK they should not overlook the long term benefits this may provide to them such as the contributions being eligible for state pension or other benefits in their home jurisdiction.

Double Tax Relief

The UK has an extensive network of tax treaties it has signed with other jurisdictions. Whilst the treaties frequently follow the internationally accepted model, each tax treaty has its own nuances which need to be understood in order to fully benefit from the reliefs the treaty may provide.

IMEs will frequently have a period where they may be resident in another jurisdiction at the same time as the UK and it may therefore be necessary to claim relief under the relevant treaty to ensure the IME is not charged to tax twice.

Payroll Operation

Payroll is often considered a routine service but with OWR, tax equalisation and specific NIC rules in play, the correct operation of PAYE is essential and is something many payroll departments do not have the requisite skills to deal with. Due to its significant international client base, R&H has experienced these issues first-hand and our ESS team is very well equipped to handle them in conjunction with our payroll bureau services team.

Wider Human Resources Issues

Outside of tax and NICs, moving to a new country can bring with it difficulties in integrating with British culture or the approach to working life. This can be true even when moving from other English speaking countries due to our particularly British nuances. R&H has itself hired our own IMEs be it from our network of overseas offices or from further afield.

Our human resources team is very happy to provide support in these areas where firms are experiencing difficulties. We regularly provide outsourced HR services to our international clients in support of their UK employees. This is particularly true where employing companies are setting up in the UK for the first time and require support in the drafting of employment contracts, staff handbooks, expenses policies, cost of living comparisons and recruitment processes.

Our HR support also extends to interviewing potential staff, providing general advice on the UK

employment environment and, utilising our network of contacts, assisting with the setting up of appropriate pension auto-enrolment arrangements.

How can Rawlinson & Hunter help?

Keeping on top of all the challenges IMEs bring can be a daunting task but our specialist ESS team has the skills and experience required to provide professional and clear advice and take the headache away from this complicated area. As you would expect from a firm with private client services at our core, our partners and staff not only have the necessary technical skills and knowledge but also the soft skills required to assist employer and employee in the most supportive way possible. This leaves you to get on with what you do best, namely running your business.

We are a genuine partner-led practice where partners are not simply figureheads but are at the heart of our advising relationship with clients, with those partners being supported by bright and talented specialist teams.

In addition to the ESS team we are a full service accountancy and tax practice and can support clients with assurance, accountancy, business and personal tax services. We also have US Tax, Trust and Wealth Reporting teams, where these may be relevant for particular clients.

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