# What are the tax / social security implications of employees working remotely overseas?

Due to the Covid-19 pandemic, have you come across:

- Employees returning to their home countries temporarily to work remotely?
- Employees deciding to remain working remotely overseas on a permanent basis?

Whilst you may want to accommodate these requests, the tax implications both in the UK and overseas should not be forgotten. Here are the main points to you should consider:

**Tax residence**

An individual's UK residence position determines their tax position. Whether an individual is resident or not for a given tax year is based on the Statutory Residence Test.

It is also possible for an individual to be dual resident in the UK and the overseas country, in which case the relevant Double Taxation Agreement should be considered to determine where they are treaty resident. The employee may need to report their departure to HMRC on a P85 "Leaving the UK" form or a UK tax return.

**PAYE**

Whilst an employee overseas can continue to be paid from the UK payroll, you may need to make PAYE adjustments to ensure the correct tax treatment, for example, so that no tax is withheld (NT code), tax is withheld on a percentage of earnings (s690 agreement) or to claim a foreign tax credit via the payroll for taxes being withheld overseas (Net of Foreign Tax Credit Relief scheme). The correct steps will depend on the residence position.

**Social Security**

The social security position does not necessarily follow the tax position, so should be considered carefully on a case-by-case basis. If your employee is only temporarily overseas, they may be able to remain in UK NIC. If they are moving permanently, the position will depend on whether they move to an EU/EEA country, or to a country with a social security agreement. If your employee is going to be working in several countries on an ongoing basis, there are further considerations. In any scenario, it is likely an application or change to the payroll NIC code will be required.

**Permanent Establishment**

You should consider whether the employee has created a permanent establishment in the foreign territory: tax advice should be taken in that country, but typically the rules for an overseas company creating a UK PE are the same for a UK PE creating an overseas PE as they are governed by OECD conventions.

**Overseas compliance**

It is important not to forget employer and employee obligations in the overseas location. Points to resolve may include:

- Will the employee become tax resident overseas? If so, when?
- Is a tax return required?
- Is there a requirement for the employer to register locally and/or operate a payroll to withhold tax and social security?

The answers to these questions vary from country to country, so it is important to take local advice.

**How we can help**

Our specialist global mobility tax team can offer a wide range of assistance to ensure you and your employee population are compliant with UK regulations and we boast a worldwide network of Kreston firms through which we can assist with any overseas requirements. Services we can offer include:

- UK departure tax briefing for your employees to determine residence position and taxation
- Preparation of P85 form or UK tax return
- PAYE advice and relevant applications
- Social security applications If you would like to discuss your UK reporting obligations in relation to any of the above, please get in touch with your usual contact at James Cowper Kreston or contact one of our Global Mobility Tax team below.

# Meet the Team

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