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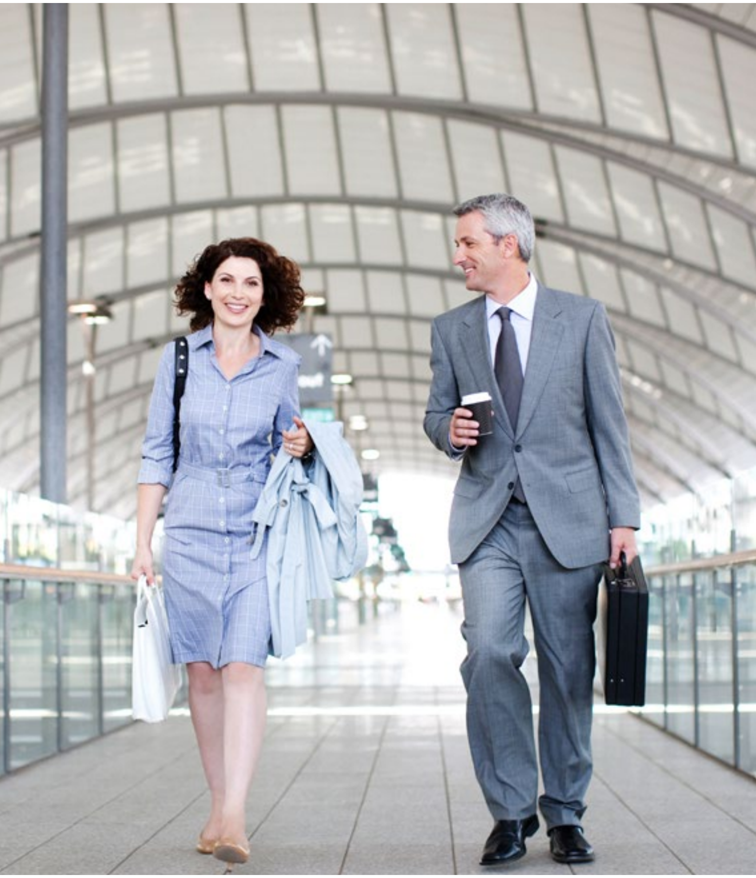

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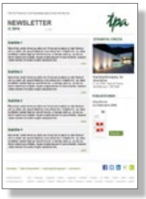

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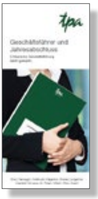

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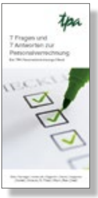

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Foreword

Many companies send employees abroad. There are a number of things to consider: Depending on the country, specific regulations apply, the company's guidelines must be observed and the personal and professional needs of the involved parties must also be taken into account.

When planning and implementing secondments, the following are
- the sending company,
- the seconded employee, and
- the host company is decisive.

Each secondment should be individually designed. Only in this way can all interests be considered in a balanced way and the legal possibilities to reduce taxes and (social) contributions be used.

With this brochure "Successfully organising secondments", the TPA Group offers an up-to-date guide to
- Labour law,
- Social security, and
- Taxes.

We show the basic structuring possibilities. However, due to the brevity and clarity of our brochure, not all detailed questions, especially those of managing directors, can be answered. Our local advisors will be happy to help you with this.

Mag. Monika Seywald

Mag. Dietlinde Brunner

Inhalt

I. Introduction

A company accepts a lucrative order abroad; in order to fulfil the order, its own employees are deployed abroad.

What sounds so simple and logical at first glance often turns out to be much more complex in practice.

Many questions arise in the case of secondments – both for the company sending an employee to another country, as well as for the seconded employee and the receiving foreign company, e.g.:

- How are the rights and obligations between the parties contractually regulated?
- In which country is income tax/wage tax payable?
- Who pays them to the authorities?
- Where is the employee covered by social security during the secondment and where is he or she entitled to social security benefits and later to a pension?

With this brochure, we would like to give you an overview of the possibilities of a secondment and the respective tax and social security implications. This is only initial, basic information. The brochure can, of course, in no way replace individual advice on the specific facts of the case.

II. Principles

The term “secondment” covers a variety of forms. In general, it is used as a generic term for “activity abroad on behalf of the employer under civil law”. This activity can take place

- for the domestic employer abroad, **or**
- for another company, but “on behalf of” the domestic employer, **or**
- on the basis of a local service contract with the foreign company directly for that foreign company, **or**
- in a combination of the basic variants listed above.

The civil law structure and the actual situation are basically decisive for the assessment under tax and social insurance law. You can read more about this on the following pages.

If the actual facts and the civil law arrangement differ, the actual facts are usually decisive for the assessment under tax and social security law. This is because it expresses the actual intention of the parties.

A. Contractual design

There are different ways of structuring the contract:

- Assistance service (contract for work) provided by the sending company to the receiving company;
- Transfer (provision of personnel) of the employee to the receiving company;
- Contract of employment (direct employment) of the employee with the company in the other state.

In principle, a **secondment always occurs when** an employee is sent by his employer to work in another country for a certain period of time. If there is no assignment at another company, a secondment agreement between the employee and the employer on the details of the secondment is sufficient.

It is not necessary that the employee works **exclusively in** the other state or for other companies during the period of **secondment.** During this period, the employee may also work for his/her sending employer in the sending state.

In the case of **assistance services, it** should be noted that this arrangement may, under certain circumstances, establish a permanent establishment of the secondment company in the other state, with far-reaching tax consequences for the company and the employee.

Special provisions exist in various legal areas for the **hiring out of** employees.

If a **separate (local) employment contract** is concluded between the employee and the receiving company,

- the employment relationship with the previous employer may be terminated in its entirety (if necessary with a promise of re-employment), or
- it may also be temporarily suspended (karenziert), or
- there can also be two parallel (part-time) employment relationships – in practice this variant is called a “split contract”.

Different legal consequences must be observed for all these cases.

The following descriptions include all the above-mentioned forms of secondment.

B. Labour law

In the field of labour law, the fundamental question is which labour contract law applies and which court is competent for any labour law disputes.

In employment contract law, the principle of territoriality applies in principle, i.e. the employment contract law of the country in which the employee usually performs his or her work applies. However, if the employee temporarily works abroad, there is a free choice of law. However, there is only a free choice of law if it has either been expressly made or can be derived with sufficient certainty from the provisions of the contract or the circumstances of the individual case. However, mandatory claims of the sending state as well as intervention norms of the country of assignment may not be circumvented by the choice of law. The choice of law should therefore be agreed in writing in the contract.

From the Austrian point of view, intervention standards include provisions on minimum wages **(Wage and Social Dumping Prevention Act)**, wage protection in the event of insolvency, working hours and rest periods, employee liability and employee protection, employment protection law and standards on continued payment of wages.

TIPP: Detailed questions (e.g. holidays, public holidays, taking out additional insurance) should be regulated in a secondment agreement between the employer and the employee.

In addition to the conflict-of-law provisions, the Posting of Workers Directive and the LSD-BG must also be observed. Employees with their usual place of employment in Austria and only a foreign employer enjoy special protection from remuneration.

C. Social security

1. Within the EU

In contrast to tax law (see point D), social insurance within the EU is not divided between different states. **Only one state is** responsible for the insurance of an employee.

Territorially, the EU regulation applies in all (currently) 27 member states, the three EEA states (Norway, Liechtenstein and Iceland) and Switzerland. The United Kingdom of Great Britain and Northern Ireland left the EU on 31 January 2020, but the withdrawal agreement with the EU still contains a withdrawal clause.

The EU Regulation covers all insured persons in its personal scope: employees, self-employed persons, civil servants, students and pensioners. The third-country regulation VO (EU) 1231/2010 also covers third-country nationals, provided they have a legal residence in the EU and there are cross-border elements in the EU (this extension to third-country nationals does not apply to Denmark, the EEA states and Switzerland).

In the material scope of application, the Ordinance includes
- Sickness, maternity, old age, disability and death benefits,
- Benefits for accidents at work and occupational diseases,
- Early retirement benefits,
- Unemployment benefits, and
- Family benefits.

In principle, **benefits in kind are provided** by the state in which the person concerned resides or stays, as if the person were insured in that member state. However, there is no possibility to freely choose in which Member State the medical services in kind are claimed. We recommend that workers, such as cross-border commuters and seconded workers, who do not live in the country where they are covered by social security, apply for a certificate of entitlement to health care benefits (form S1). If someone wishes to travel to another EU country exclusively for medical treatment, the costs of this treatment must be clarified in advance with the competent insurance institution.

Cash benefits (as income replacement benefits) are paid according to the legislation of the country in which the person is insured, irrespective of the place of residence or stay. Periods completed in different countries are added together (e.g. acquired pension months for the question whether a pension entitlement exists or not).

As already mentioned at the beginning, only **one** state is responsible for social security (principle of **single insurance**) and that is the state in which the employee works (**country of employment principle**).

The employee is therefore subject to social insurance in the country in which he or she actually performs the activity. In principle, neither the domicile of the employee nor the registered office of the employer is relevant. This can lead to the fact that foreign registration and contribution law may have to be applied.

However, the country of employment principle only ever applies if no derogation applies.

For the determination of social security, the **following exceptions** and conflict-of-law rules must be observed:

- Exception for a secondment of up to 24 months (see point a);
- Exemption in case of secondment (see point a);
- Conflict of laws in case of activity in two or more Member States (see point b)

a) Secondment

According to Regulation 883/2004, if an employee is seconded to another member state, the social security obligation remains in force in the seconding state if the secondment does not last longer than **24 months** from the beginning.

If the secondment is planned from the beginning for a period longer than 2 years, but not longer than 5 years, an application for a **removal permit** can be made to the competent ministry of the sending state (whose legislation is to continue to apply).

However, there is no legal entitlement to this exemption. If the secondment lasts longer than 5 years, the social security law is (immediately) transferred to the country of activity.

TIPP: When making an agreement with an employee, particular attention should be paid to the duration of the planned secondment. There are countries within the EU that allow an exemption of more than 5 years. In any case, it is advisable to clarify the specific circumstances with our experts in the sense of a case-by-case consideration.

The secondment company must carry out a significant activity in the State of establishment, it must not be a replacement of another previously seconded person and it must not be a triangular secondment.

TIPP: Self-employed entrepreneurs can also (temporarily) second themselves!

b) Activity in two or more Member States

If an activity is carried out in two or more Member States, social security remains in the State of residence of the employee if he carries out a substantial part of his activity in the State of residence.

For the assessment of materiality, working time and remuneration are to be taken into account, whereby 25% is an indicator of materiality.

If the employee does not carry out any substantial activity in his country of residence, he is subject to the following legislation:

- Employment with a company:
  - The law of the Member State in which the company has its registered office;
- Employment by two or more undertakings established in a Member State:
  - The law of the Member State in which the undertakings have their registered office;
- Employment with two or more companies established in two Member States, one of which is the Member State of residence:
  - legislation of the Member State in which the undertaking is established outside the Member State of residence;
- Employment with two or more undertakings, at least two of which are established in different Member States outside the Member State of residence:
  - legislation of the Member State of residence.

TIPP: If the country of residence of the employer and the country of residence of the employee are – as is usually the case – identical, it is not necessary for a substantial part of the work to be carried out in the country of residence in order for social security law to remain in the country of residence = **country of residence of the employer.**

TIPP: In the case of two employment contracts (e.g. work from Tuesday to Thursday at the subsidiary in another EU country, Monday and Friday at the parent company in Austria), social insurance law always remains with the employee's country of residence if there is substantial work in Austria. This is the case if the employee works at least two days in the country of residence in Austria (25% clause).

According to our information, the special regulation according to which temporary home office work due to Covid-19 measures does not lead to a change in social insurance responsibility has been extended until 30 June 2022.

c) Special regulations in the case of self-employment in addition to non-self-employment

For the sake of completeness, we would like to point out the following: If the employee is self-employed in addition to his or her employment, the state in which the **employment is** carried out is responsible for the social security of all (non-employed and self- employed) income. However, “marginal” employment (less than approx. 5% of the total gainful activity) would have to be disregarded for this classification. There are also special regulations for employees on ships and for civil servants.

d) Implementation of the insurance

The state responsible for social security insures the activity or activities/service relationships according to its national regulations. A foreign employer is then subject to the registration and contribution law of the competent state.

The competent state must issue the **PD A1 certificate,** which must be carried by the seconded employee. If this certificate is available, the other state may not levy social security contributions.

Regulation 883/2004 provides an electronic exchange of information on the existence of the PD A1 certificate between the individual member states. A further step has been taken in the direction of a transparent employee. You can read about the measures that have been taken in recent years to improve the tax transparency of cross-border situations at OECD and EU level here: www.tpa-group.at

However, if it turns out in proceedings between the states concerned that the insurance was carried out incorrectly, this may lead to a reversal. In such a case, the national statutes of limitation must also be observed and, if necessary, complex reversal procedures must be initiated.

2. Outside the EU

If EU standards are not applicable to the secondment, the next step is to check whether a **bilateral agreement on social security** applies. Bilateral agreements usually provide for a secondment period of 2 or 5 years.

They are to be applied – in contrast to EU standards – even if the secondment is planned for longer than 2 or 5 years from the beginning. The agreements usually cover health, pension, accident and unemployment insurance. The material and personal scope of application of the specific bilateral agreement must be examined in detail in each case.

If no agreement applies, only the – respective – national law applies. In such a case, **double insurance or multiple insurance** may occur**.**

D. Taxes

1. Unlimited/restricted income tax liability

Unlimited tax liability basically means that the country of residence or domicile taxes the taxpayer's entire world income. This also includes income from another state. As a rule, there is unlimited tax liability if a natural person has his or her (fixed) domicile or habitual residence in a state.

Limited tax liability, on the other hand, means that a state – simply put – only taxes the income from its "sources". A state provides for limited tax liability for so-called non-resident taxpayers for certain types of income, e.g. for an employed activity carried out on the territory of the state.

When a state considers an individual to be subject to unlimited or limited tax liability is determined autonomously by each state in its respective tax laws.

If a natural person resides in one state and the centre of his or her life interests is also located there (closer personal and economic relationship), but he or she works in another state, this person may in principle be subject to income or wage tax liability in both states:

- In the one state, i.e. the state of residence, of unlimited tax liability,
- in the other state of limited tax liability.

2. Double taxation agreement

In order to prevent double taxation of income, many countries have concluded so-called double taxation agreements (DTAs). A DTA is a treaty between two states that regulates **which state may exercise its right of taxation** and how the state of residence must avoid any double taxation. A DTA does not create a right of taxation, but merely allocates taxation rights between the two states.

TIPP: Check exactly which double taxation treaty applies to your case.

If an employee has **a residence in both states** (e.g. his family residence in Austria and his residence abroad), he is probably subject to unlimited tax liability in both states according to the respective domestic law. In this case, residency must be checked according to the respective applicable DTA.

TIPP: If an employee is seconded to a country with which his or her country of residence has not concluded a double taxation agreement, it is necessary to check whether the country of residence has enacted a domestic (unilateral) provision that prevents double taxation in such cases.

3. Residence within the meaning of a DTA

For the allocation of the right of taxation, it must be clarified in which state the employee is resident within the meaning of the DTA, i.e. which state is the state of residence. For this purpose, the following factors (so-called **"tie-breaker rules"**) must be examined in the order listed:

(1) In principle, a person is deemed to be a resident of the state in which he or she is liable to tax under the applicable law on the basis of his or her domicile, permanent residence or a similar characteristic.
(2) If he or she is a resident of both States, he or she shall be deemed to be a resident only of the State in which he or she has a permanent address.
(3) If she has a permanent residence in both states, the centre of vital interests is taken into account.
(4) If the centre of vital interests cannot be determined, a person is deemed to be resident in the State in which he or she has his or her habitual residence.
(5) If the person has no habitual residence in either or both States, he or she is a resident of the State of which he or she is a national.
(6) If residency cannot be determined in this way either, the authorities of the states concerned must agree on a mutual agreement procedure.

II. Principles

Since an employee who is active across borders usually has two residences, the **"centre of vital interests"** (point 3 above) is the most important criterion in practice. This means the place to which the taxpayer has the closest personal and economic ties.

In most cases, however, **personal relationships are** more important than economic ones. The following criteria speak for close personal relationships: Family residence, religious, cultural, sporting, artistic, social or societal activities, memberships, planning of the evening of life in a certain place, etc.

According to DTA law, the state with the centre of vital interests is then the state of residence, the other state the source state, which may only tax the income allocated to it under the DTA.

As already mentioned, a DTA does not create a right of taxation, but **merely allocates taxation rights between the two states.** It also does not contain any provisions on how such a right of taxation allocated to a state is exercised by the respective state.

The actual taxation is carried out autonomously by each state. In turn, it can differentiate between limited and unlimited taxpayers in its domestic law and tax them differently.

4. Income from employment

The DTAs concluded by Austria provide for the **right of taxation of the country of residence of** the seconded employee as a basic rule. Therefore, residency is to be determined according to the above criteria.

As an exception to this basic rule, the DTAs provide for the **place of activity principle:** If the activity is carried out in the other (DTA treaty) state, this state has the right to tax this income.

a) Exception to the place of activity principle

However, there is again an **exception to** the place of activity principle (however, this does not apply to cases of labour leasing or provision of personnel – see lit. b). The right to tax the income remains with the state of residence if

(1) the recipient does not stay in the other state for more than 183 days in total within a calendar or tax year or – depending on the text of the agreement – within a period of 12 months beginning or ending during the tax year in question, and
(2) the remuneration is paid by an employer or for an employer who is not a resident of the other State, and

(3) the remuneration is not borne by a permanent establishment which the employer has in the other State.

Only if **all three conditions** are cumulatively fulfilled does the **right of taxation** remain with **the** employee's **country** of **residence** despite the foreign place of employment.

If only one of these conditions is not met, the seconded employee becomes liable to income or wage tax in the **country of employment with** retroactive effect, i.e. from the first day of work.

Special regulations apply to employees in international shipping and aviation. Individual DTAs also provide for special regulations for cross-border commuters, as well as for board of directors, supervisory board and managing director remuneration. In addition, there are regularly separate provisions for students, professors, orchestras, (entertainment) artists, athletes, civil servants and pensioners.

(1) 183-day rule

The 183-day rule is the most important exception to the place-of-activity principle. In the case of an assignment abroad that does not exceed 6 months, the right of taxation (provided that the other two prerequisites are also met) is not to be transferred to the other state, but remain with the state of residence. Without this simplification regulation, every employee who works abroad – even if only for a short time – would immediately be liable to tax in that country.

For the calculation of the 183 days – i.e. for the question of whether the tax liability remains in the state of residence or not – the physical presence in the state of activity is decisive. Partial presences, i.e. days that have already begun, such as arrival or departure days, are counted as a full day. Furthermore, all days of presence in a "State of activity", i.e. also holidays, illness, weekends, public holidays, are taken into account for this calculation.

TIPP: In order for the exemption rule to apply, **precise records of** the employee's arrival and departure times (travel calendar) must be kept. The tax authorities check this very carefully and strictly.

The allocation of the right to tax income is based on the actual days worked in the respective state. For any activity in another (third) state that does not have its own right of taxation according to the DTA, the state of residence has the right of taxation.

(2) Residence of the employer

In addition to the 183-day rule, the non-residence of the employer in the State in which the work is carried out is important.

According to the DTA, an employer is generally a resident if he is liable to pay tax there under the law of a state on the basis of domicile, permanent residence, place of management or a similar characteristic. As a rule, legal entities are deemed to be resident where the place of actual management is located.

(3) Permanent establishment of the employer in the state in which the work is carried out

Another important point is that the employer does not have a permanent establishment in the state in which the work is carried out. In principle, the place of a permanent, fixed, on-site facility for carrying out all or part of an entrepreneurial activity, e.g. branches, offices, factories or workshops.

TIPP: In practice, a permanent establishment within the meaning of the DTAs is generally only assumed to exist for a period of 6 months or more.

Some newer DTAs also provide for a so-called service permanent establishment. In these cases, a permanent establishment in the other state is not required for the creation of a permanent establishment.

If the secondment takes the form of an assistance service and if the company in which the seconded employee works for his employer makes premises (including e.g. containers) available to the seconded employee for (joint) use, this can also lead to the creation of a permanent establishment for the seconding company. In this case, the actual work process must be examined very closely in each individual case.

In principle, the issue of “permanent establishment for income tax purposes” is increasingly coming into the focus of the tax authorities due to tightening at EU level. For example, a permanent home office of an employee can constitute a permanent establishment, especially if this address is also stated as the contact address for customers and not only preparatory or merely auxiliary activities are performed there. The activities of a sales representative (even without a power of attorney) can also constitute a permanent establishment. This applies even if he only participates in the negotiation of essential elements of the contract. In addition to the allocation of the right to tax the employee’s remuneration in the state in which the activity takes place, the establishment of a permanent establishment can therefore also lead to income tax liability and, in many cases, also to turnover tax liability of the sending enterprise. If necessary, the company may also be subject to more far-reaching (social security) obligations under national law.

In the opinion of the Federal Ministry of Finance, however, only temporary home office activity due to Covid-19-measures does not lead to the establishment of a permanent establishment. The delimitations in individual cases are extremely complex and our experts will be happy to assist you.

b) Economic versus civil law concept of employer

Some states – since mid-2014 **also Austria** – assess the concept of employer from an economic point of view. In the case of a temporary assignment (staff secondment), it must therefore be examined whether the the sending company is still to be considered as the employer for the application of the DTA (legal approach).

Within the framework of the economic approach, the status of employer depends on who is the employer in economic terms (according to the typical employer functions). The economic employer is considered to be the company that economically bears the costs for the leased employee.

This means that if, in the context of a (group) assignment, the costs are passed on to the foreign company to which the employee was seconded, the employing company is generally to be regarded as the economic employer.

This means that the exception described under point a) ("183-day rule") does not apply and the employee is liable to pay tax in the other state from the first day of his employment in the context of assignment.

Austrian perspective

In the case **of inbound** assignments (= assignment from another country to Austria), the tax authority assumes the economic employer concept and an immediate right to taxation in Austria.

In the case of **outbound assignments** (= assignments from Austria to another country), Austria only waives its right to taxation if the other country also follows the economic employer concept and (demonstrably) taxes the employee from the first day of employment.

In this case, the respective national tax administrations may make different assessments, always if the sending state follows the civil law approach, but the host state follows the economic approach. This can make it necessary to initiate a so-called mutual agreement procedure.

In the meantime, the economic concept of the employer has been adopted in many EU countries.

5. Special case – taxation of executive remuneration

The right to tax remuneration of managing directors with unlimited and limited tax liability in Austria is not regulated uniformly in the various DTAs. The inconsistent assessment of the DTA provisions is essentially based on on the OECD Model Tax Convention and the understanding that terms not defined in a DTA are to be interpreted according to the respective domestic law (lex fori). Conflicts of qualification and the risk of potential double taxation make these matters very complex and particularly advisory-intensive.

In the relationship with Germany, in deviation from the OECD Model Convention, Article 16 of the DBA-Austria/Germany introduced a simplifying special regulation for managing directors under company law, according to which “remuneration received by a resident of a Contracting State in his capacity as managing director ... of a company which is a resident of the other Contracting State shall be taxed in the other State”. This applies regardless of whether the director has an interest in the company. In simple terms, the remuneration of the managing director should be taxable at the registered office of the company.

The home office activities of (sole) managing directors, which have been further strengthened by Covid-19, have now added another component to this issue. In the case of remote management of a German (incorporated) company by a sole managing director resident in Austria, the Federal Ministry of Finance (BMF) now focuses on the question of the place of actual management. If the fundamental management and commercial decisions are made in Austria in the case of such remote management, then in the view of the Austrian Federal Ministry of Finance, the scope of application of the special rule of Article 16 DBA-Ö/D is not fulfilled; in this example, Germany no longer (automatically) has the right of taxation on the income of the managing director; rather, this is to be determined on the basis of the provisions for business profits, self-employed or employed work, depending on the specific facts of the case.

As you can see, business leaders in particular have their own issues that are always new.

Click here for the detailed article: www.tpa-groupt.at

Our experts will keep an eye on this jungle of regulations and will be happy to support you.

6. Special features for non-residents in Austrian tax law

a) Flat-rate income-related expenses for expatriates

Since 2016, Austria has provided for expatriates – these are skilled workers who are sent to Austria (e.g. to a branch office or an affiliated company) by internationally active companies – a special flat-rate allowance for income-related expenses,

- which can already be taken into account by the employer for tax reduction within the framework of payroll accounting, or
- which the employee can claim as part of the tax return.

The **lump sum for income-related expenses amounts to 20% of** the assessment basis, but not more than EUR 10,000 per calendar year. In the event of entry or exit during the course of a year, the lump sum shall be prorated, whereby incomplete months at the beginning or end of the employment relationship may be counted as full months. The basis of assessment is the gross salary minus tax- free or tax-privileged salary components (e.g. special payments within the annual sixth, tax-free overtime supplements).

The following conditions must be met in order to claim the lump sum:

- Employment on behalf of a foreign employer in Austria within the framework of an employment relationship with an Austrian employer (group company or domestic wage tax permanent establishment);
- Employment in Austria only temporary (maximum five years);
- The employee has not been resident in Austria for the last ten years;
- The previous residence abroad is maintained; and
- Austria has the right of taxation for this income.

If it is planned from the outset that the employment in Austria will last longer than 5 years, the flat-rate regulation may not be applied. This also applies in the case of a fixed-term employment relationship with the option to extend the employment relationship beyond five years.

If the lump sum is claimed, no additional income-related expenses can be claimed. However, the employee is always free to claim **higher actual income-related expenses** instead of the lump sum.

b) In-migration benefits for certain groups of persons

For persons whose immigration from abroad serves the promotion of **science and research, art or sport** and for this reason is in the public interest, there are tax advantages in Austria under certain conditions.

The preferential treatment consists in the elimination of an additional tax burden resulting from the move to Austria. The additional tax burden is to be avoided by ensuring that the taxation of foreign income in Austria does not exceed that in the country of origin. Only domestic income is subject to regular taxation in Austria.

For scientists and researchers, the immigration allowance was made even more attractive and expanded in 2016. For these top executives, there is an additional flat-rate allowance of 30% of the income taxed at the standard rate, which provides lump-sum compensation for the additional immigration costs and the tax disadvantage on the domestic income. However, this allowance is limited to 5 years. The informal application must be submitted to the Austrian tax office within 6 months of the move and requires the transfer of the centre of vital interests to a domestic residence.

If the tax-free allowance is granted, no other business expenses, income-related expenses or extraordinary burdens in connection with the move can be claimed.

c) Application for unlimited tax liability

Persons without residence or habitual abode in Austria are subject to limited tax liability only on their domestic income. In the context of their – also voluntary – income tax return, an amount of EUR 9,000 is added to the tax assessment base for a person with limited tax liability. This amount is not taken into account in current payroll accounting. Due to the tax exemption limit of EUR 11,000, limited taxpayers only have a tax-exempt cash income of EUR 2,000. Therefore, it is often advisable to consider establishing a (secondary) residence in Austria (this results in unlimited tax liability in Austria with all the associated advantages and disadvantages).

EU/EEA citizens who do not reside in Austria but have their main income in Austria (at least 90 % of the income is earned in Austria, or the foreign income amounts to income not exceeding a total of EUR 11,000) may opt for unlimited tax liability in the declaration for employee assessment or income tax. In this case, only the Austrian income is taxed despite the unlimited tax liability. However, the addition of EUR 9,000 in the assessment does not apply. In addition, personal deductions (in particular sole earner, single parent, maintenance deduction), special expenses and extraordinary burdens can be claimed.

7. Avoidance of double taxation

How double taxation is avoided is regulated by the so-called **"method article" of** the respective DTA. There are basically two variants:

- Exemption method with with the right to make a progression calculation;
- Imputation method.

Exemption method means that the foreign income is not taxed in the country of residence. However, the state of residence includes this income when determining the tax rate that is then applied to the remaining income (with the right to make a progression calculation).

The credit method, on the other hand, means that the state of residence taxes the entire world income, but credits the tax already paid in the state of activity (possibly only partially) against the calculated tax; the credit is in any case limited to the tax to be paid in the state of residence.

8. Information exchange – The transparent taxpayer

You can read here about the measures that have been taken in recent years to improve the tax transparency of cross-border situations at OECD and EU level.

TPA locations

TPA is represented by 14 TPA offices in Austria. In addition, we are available to you in a further 11 countries in Central and South-Eastern Europe: Albania, Bulgaria, Croatia, Montenegro, Poland, Romania, Serbia, Slovakia, Slovenia, Czech Republic and Hungary.

You can find all our locations and contacts at:

www.tpa-group.at
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www.tpa-group.com

Imprint
Information as of February 2022, subject to change. Without guarantee. The information is highly simplified and cannot replace individual advice. Responsible for the content: Monika Seywald, Dietlinde Brunner, StB.
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