



Sweden | COVID-19

International mobile employees

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Executive summary

In the last two decades, it has become quite common to take employment in another country than in the country of residence. Especially within the Nordic region, daily cross-border commuting is well established, e.g., the labor market within the Öresund-area is naturally spread between Denmark and Sweden. Many key functions within Nordic groups are often held by the same person for all Nordic subsidiaries. Hence, regular cross-border travel is a necessity. Since Sweden is a small labor market, international assignments in and out of Sweden are also well stipulated.

Due to travel restrictions and closed borders, many employees are now in quarantine in their country of residence. This can lead to a situation where employees will be working from a country other than the country in which they normally conduct their work. Since rules for taxation and social security often are based on where the work is physically performed, i.e., actual presence in a certain country, the taxation and social security belonging needs to be reviewed in the light of the current situation. Employer compliance issues may also arise in countries where work now is being carried out by employees during the pandemic.

Aspects to consider for cross-border workers during COVID-19 pandemic are:

- ▶ Will a permanent establishment (PE) arise for the foreign employer when the employee works from a Swedish residence?
- ▶ How will the employment income be taxed when the cross-border worker is prevented to work in the country of employment?
- ▶ Will work in the employee's Swedish home create social security footprints and compliance issues for themselves and their employers in the country where the work is now being carried out?
- ▶ What obligations does the employer have with regards to providing a safe working environment in case work is performed in the employee's home?

While there are no definite answers to cover every international scenario, issues and guidelines are emerging across the Organization for Economic Co-operation and Development (OECD), European Union (EU) and in Sweden for certain groups, which are covered in this article.

OECD Secretariat's analysis of tax treaties and the impact of COVID-19

The OECD Secretariat has issued an analysis of tax treaties and the impact of COVID-19 on 3 April 2020. The OECD has broadly covered four major concerns relating to the creation of a PE, the residence of companies, the residence of individuals and the taxability of employment income of cross-border employees. In analyzing the issues, the OECD has relied mainly on the commentary on tax treaties and provided its guidance on the issues arising in the current, unprecedented situation.

The analysis generally observes that these exceptional circumstances should not cause meaningful changes in the tax position (under a treaty) of employees or employers in respect of PE, residence and the taxation of employment income.

The OECD has recommended that tax administrations should produce directions or regulations to address tax issues that could be created by the cross-border employees due to various restrictions imposed in connection with the COVID-19 pandemic.

While the OECD analysis was welcomed, OECD recommendations are not binding on member countries and by default, would not impact domestic tax laws. It could, however, act as a guiding principle for member countries, including Sweden, when enforcing taxation under tax treaties and encourage countries to make suitable amendments to their domestic legislation to give effect to special measures.

The OECD's analysis is further described below in the chapters concerning PE and taxation of employment income.



Permanent establishment

Introduction

A foreign legal entity (company) has a limited tax liability in Sweden and is taxable for, inter alia, income from a PE in Sweden.

The Swedish legislation on PEs is based on Article 5 in the OECD Model Tax Convention on Income and on Capital with few adjustments.

This entails that income from business activities – conducted in a country other than where a company has its head office – is normally taxable in the source country (in this case Sweden), if the activities can be regarded as conducted through a PE. For tax purposes, the term “permanent establishment” is defined as a fixed place of business through which the business of an enterprise is wholly or partly carried on.

In addition to this general principle, a PE is also deemed to exist if a person, other than an agent of an independent status, acts on behalf of a foreign company and has, and habitually exercises an authority to conclude contracts in the name of that company. This would constitute a dependent agent PE (DAPE).

Regardless of whether the company carries on business in the source country through a fixed place of business or an agent, it is required that the activities performed are considered as core business activities of the foreign company for a PE to be deemed to exist. Further, for a PE to be constituted, the core business activities need to be regarded as permanent. A business operation is normally deemed to have a certain degree of permanency, if it is carried on for six months or longer (lower threshold can occur in case the activities are annually recurring).

With regards to PE, due to the use of home offices by employees of foreign companies in Sweden, the Swedish Tax Agency (STA) published a statement in 2015, elaborating its view. The STA expresses that the mere fact that an employee works from home does not necessarily imply that a certain space in the home of the employee is at the company's disposal, which is a pre-requisite for a PE to be constituted. However, in case the employee is required to work from

home by the employer on frequent basis, either explicitly or implicitly, a PE could be deemed to exist. Such an implicit requirement could be supported by for example the absence of an office provided by the employer even though it is required in order to perform the work.

COVID-19 impact on permanent establishment in Sweden

In case a person, employed by a non-Swedish company, is situated in Sweden conducting work from home due to COVID-19, the question of whether this can trigger a potential PE exposure needs to be assessed. The STA has, so far, not indicated that the rules will apply in a less stringent way due to COVID-19. Thus, a case-by-case assessment should be undertaken, whereas initially, the duration will be of importance. In case the person working from home in Sweden will be doing so for a period not exceeding six months, it can be argued that the permanency criteria for a PE to be constituted is not fulfilled.

Further, in case the duration exceeds the six months' threshold, an analysis of the work undertaken needs to be made in order to conclude if such work is to be regarded as “core business activities.” If this is not the case, the risk for a PE to be constituted can be regarded as low. However, in many situations, it can be difficult to clearly assess whether certain activities are “core business” or not.

EY analysis

In case the activities are being conducted from the home of the employee for more than six months and the activities are regarded as being core business activities, it should be assessed whether the home of the employee is at the employer's disposal. Our current understanding of the position of the STA in this regard is that if an employee is working from home due to COVID-19 rather than because the employee is normally required to do so, explicitly or implicitly, then the home office should not be regarded to be at the disposal of the employer and thus does not constitute a PE.

The position expressed by the STA aligns with the applicable legislation as well as the recently issued analysis of tax treaties and the impact of the COVID-19 by the OECD Secretariat in this regard.

Taxation of employees

Introduction

Both from the perspective of domestic law and tax treaties, taxation and avoidance of taxation is often based on the number of actual days or workdays spent in Sweden or in another country. Involuntary immobility due to travel restrictions during the current COVID-19 situation causing otherwise mobile individuals exceeding time thresholds may, therefore, impact tax residency and/or tax liability both under domestic rules and under relevant double tax treaties.

Taxation in Sweden under domestic law depends on whether an individual is seen as a tax resident or non-tax resident. An individual could be considered a tax resident in Sweden if the individual stays in Sweden continuously for a period of six months or more. The individual's worldwide income will be taxable in Sweden then. Employment income for work performed in Sweden is normally taxable in Sweden for both residents and non-residents.

Applicable double tax treaties may, in certain situations, limit a country's taxation rights for work performed in order to mitigate double taxation. The work country's right to levy tax could be limited by the so-called "183-days rule" in most double tax treaties, stating that an income could be tax-exempt in the country of work when no more than 183 days are spent there during a 12-month period/a calendar year (depending on the applicable treaty). A similar rule is included in Swedish domestic legislation for the taxation of non-residents.

In the Nordic region, it is common that individuals commute across the borders. An individual living in Sweden who commutes to another Nordic country for (non-Swedish) employment, pays tax in that country for work performed there. Employment income for work performed in Sweden and/or a third country is then normally taxed in Sweden. The same would apply for residents in other Nordic countries commuting to an employment in Sweden. Their employment income for work performed in Sweden will in general be taxable in Sweden.

For commuters between Sweden and Denmark, there are special rules in place, making the total employment income taxable in the country of employment – under certain

conditions – even though some work was performed outside of the employment country.

For Swedish residents working abroad for long periods – the so-called six-month rule in the Swedish legislation – can under certain conditions exempt an employment income from Swedish taxation. This exemption applies if the individual is working abroad for at least six months, the income is taxed in the other country and no more than 72 days are spent in Sweden during an employment year. An equivalent rule can (under certain conditions) apply for work abroad for more than one year (the so-called one-year rule), even though the income is eligible for tax exemption in the country of work.

The OECD analysis of the COVID-19 impact

The OECD is working with countries to mitigate the unplanned tax implications and potential new burdens and the rising administrative costs. Article 15 in the OECD Model Tax Convention governs the taxation of employment income, distributing the right to tax between the employee's country of residence and the place where they perform their employment. Further, the employment income would be taxable where the employee is physically present when performing the activities for which the employment income is received.

The OECD analysis has discussed the taxability of cross-border workers and has commented on the stimulus packages adopted/proposed by governments to keep employees on a company's payroll, despite restrictions on the exercise of their employment during the COVID-19 crisis. As per the analysis of the OECD, such income should be attributable to the place where the employee would otherwise have worked, i.e., the place the employee would have worked before the COVID-19 crisis, in most circumstances. When it comes to the residence status of individuals, the OECD has also advised tax administrations and competent authorities to consider a more normal period (i.e., assumable the time before the crisis) while assessing a person's residential status.

COVID-19 impact on taxation of employees

The number of days spent in Sweden and other countries is clearly a determining factor when it comes to taxation. The current situation where COVID-19 has caused countries to

impose travel restrictions, causing many employees to work from their homes, may have a large impact on the tax liability for usually mobile employees.

As previously mentioned, the OECD is working with countries to mitigate the unplanned tax implications because of COVID-19 and has advised competent authorities to consider a more normal period while assessing a person's residential status due to the exceptional circumstances created by COVID-19. The STA must, however, comply with the Swedish legislation and tax treaties; hence, the room for exceptions due to COVID-19 is limited.

The STA recently published some guidelines on its position on how employment income should be taxed due to an unforeseen stay in Sweden in the light of COVID-19. Received commentary from the STA will also be considered in our examples further below.

Several factors are considered while determining tax liability in an individual situation, but in the scenarios below and for the purpose of this article, we have focused on the physical presence of the employee.

► **Swedish resident working from home instead of daily commuting to the country of employment**

In the current situation, if an individual is working from home in Sweden instead of daily commuting to another country, the employment income will only be taxed in Sweden instead of in the ordinary work country. Under the double tax treaty, the non-residency state has a right to levy tax only on workdays within the country. If all workdays are in the residency state Sweden, then Sweden has the exclusive taxation right.

In case of Swedish residents commuting to Denmark for work, the Nordic tax treaty gives Denmark the right to tax the full employment income provided that at least 50 percent of the work during three months is performed in Denmark and the rest is performed in the Swedish home or on temporary business trips. Depending on how long the COVID-19 pandemic will be ongoing, Swedish taxation can then be avoided for Swedish workdays. A review of each individual's travel pattern is necessary to confirm the applicable country's right for tax. If the individual is not performing 50 percent of the work during a three-month period in Denmark, Sweden will have the right to tax all workdays outside of Denmark.

► **Swedish resident's international assignment interrupted**

For a Swedish tax resident that is on assignment abroad for more than six months, the employment income may, in some cases, be exempt from Swedish tax under the

domestic law, provided that no more than six days per month on average during this period are spent in Sweden (the so-called six months rule). If the individual has traveled home for a visit and is now unable to go back to the work country, the individual may exceed the allowed number of days in Sweden for the exemption to apply.

There is, however, a possibility to apply the abovementioned rule, if the reason for the prolonged stay in Sweden has been unforeseen and out of the individual's control. The STA has confirmed that the rule can be applied, if an individual involuntarily has remained in Sweden due to the COVID-19 pandemic leading to the individual spending more than six days on average per month in Sweden. The application of the exemption, however, still requires that the work has been performed and taxed abroad. The actual period of stay and work in Sweden will, therefore, not be exempt from Swedish taxation according to the six months' rule. Periods abroad before and after the unplanned stay in Sweden could, however, be exempt according to the mentioned rule, if all other conditions of the rule are fulfilled. Possible double taxation of the income that cannot be exempted from Swedish taxation must be avoided in accordance with applicable double tax treaty.

Based on the STA confirmation, the following should apply:

- July 2019-February 2020
Working abroad
Taxation in Sweden may be avoided
- March 2020-September 2020
Working in Sweden due to COVID-19
Taxation in Sweden
- October 2020-December 2020
Working abroad
Taxation in Sweden may be avoided

► **Swedish resident prevented to come home from an international assignment**

For an outbound assignee that cannot travel back to Sweden at the end of the assignment, the prolonged stay in the other country may affect both the tax residency status under the domestic law in the country of work and in accordance with the applicable tax treaty. Also, applicability of the 183-day rule may be affected, which may cause a situation where income that would have been exempted from tax in the work country, or taxed at non-resident tax rates, now becomes taxable or is taxed at a higher tax rate.

In the light of the OECD's advice to consider a more normal period while assessing a person's residential status due to the exceptional circumstances created by COVID-19, the

tax residency according to the treaty may not be affected depending on the view of applicable countries.

► **Foreign nationals prevented to leave their international assignment in Sweden**

An individual that is on an inbound assignment to Sweden may currently not have the option to leave Sweden because of travel restrictions. This could cause an individual that was originally seen as a non-resident taxpayer (because the stay was shorter than six months), to become a resident taxpayer in Sweden under domestic law and liable to pay Swedish tax on the worldwide income according to the higher progressive tax rates. The applicable double tax treaty would mitigate any double taxation, but if the Swedish tax is higher, it may lead to a higher overall tax liability for the individual.

In the light of the OECD's advice on considering a normal period while assessing a person's residential status, we may find room to argue that a Swedish tax residency should not arise when an individual is hindered to leave Sweden due to COVID-19 travel restrictions. Since the residency determination in this matter is confirmed by the applicable Swedish law, a specific COVID-19 case law could be established.

Consider the case where an individual on assignment in Sweden – whether a resident taxpayer or a non-resident taxpayer – is being forced to stay in Sweden. This may also affect the applicability of the 183-day rule under the applicable double tax treaty. Employment income that would have been previously exempted from tax in Sweden may now become taxable in Sweden.

The OECD has released some guidance regarding the interpretation of the double tax treaties in light of the current situation and has encouraged countries with stringent taxation norms when determining the applicability of the 183-day rule to take a more liberal view on the taxability of the income earned by the stranded workers due to the COVID-19 situation. The STA, however, is not able to make exceptions to the application of the 183-day rule, without competent governments making legislative and/or treaty changes.

► **Foreign nationals unable to continue their temporary assignment in Sweden**

Another situation that may occur is that an individual on an assignment in Sweden has travelled to the home country for a visit and is not able to travel back to Sweden.

If the individual is a tax resident in Sweden on the grounds of a continuous stay, that stay may be interrupted and the individual may, instead, be regarded a non-tax resident. A filing obligation may then be avoided, and income for work performed outside of Sweden would not be taxable in Sweden, according to Swedish domestic legislation. Income for work performed in the home country will most likely be taxable there instead.

For an individual who is stranded in the home country and has a non-Swedish employer, the 183-day rule in the applicable tax treaty may lead to income for work performed in Sweden for a certain period being taxed only in the home country, provided the individual is a tax treaty resident in the home country.

EY analysis

We are currently in a situation we have never experienced before and that can have a severe effect on the tax liability for cross-border employees. They are faced with the questions such as:

- Which country's tax laws apply?
- What is the level of tax?

While the OECD has recommended a benevolent interpretation of the circumstances when determining the applicability of the rules in the OECD model tax convention, there is little room for interpreting and applying domestic Swedish rules differently because of the COVID-19 crisis. Since there are double tax treaties in place, it will most often however be possible to mitigate any double taxation situation. But the overall tax liability may still be affected since the level of tax varies for tax non-residents compared to tax residents and between countries. The current situation may also be affected by what country taxes are due, which may give rise to a lot of practical problems related to withholding tax, employer reporting and declaring the employment income, and give rise to additional administrative burdens.

Since all countries have their own domestic rules and case law, there is unfortunately not an easy answer to how employee's tax liability will be affected due to the COVID-19 pandemic. A case-by-case evaluation is, therefore, necessary taking each individual's situation and travel calendar into account. It is, therefore, of utmost importance that all mobile employees keep a detailed calendar, noting both workdays and non-workdays in all countries. A process should be established by the employers to track these cases, to confirm all employer obligations in different countries.

Immigration

Introduction

For a Swedish work permit to be granted, a foreign national must be offered terms of employment that are on par with the Swedish collective agreements or what is customary within the occupation or line of business. The terms of employment include the salary level and insurance coverage, among other things stipulated by the Swedish law, such as the right to vacation and a good working environment.

Employers must, therefore, ensure that their foreign employees not only meet these requirements at the time of application, but throughout their period of employment

and residence in Sweden. As such, salary levels must be consistently maintained (an absolute minimum of 13,000 SEK per month), full insurance coverage provided among other work environment conditions. Employers who fail to fulfil these conditions could find their employees struggling to extend their work permits, or worst-case scenario, being deported from Sweden.

Other conditions tied to the issuance of a work permit, include a work permit being revoked, if the employment/work has not commenced within four months of the issuance date, or periods of unemployment exceeding three months at any



one period. There are no ongoing control measures in place to assess whether these conditions are met. However, if this is discovered, particularly at the time of extension, the permit can be revoked, or extension rejected on this basis.

| COVID-19 impact on immigration to Sweden

Sweden's Ministry of Justice, the authority responsible for immigration legislation in Sweden, has advised that no legislative changes will be introduced to support those impacted by COVID-19. Instead, the same rules outlined above continue to apply. This means that employers must continue to meet the employment conditions offered in the offer of employment (OOE), which forms part of a foreign employee's work permit. Whilst reduced working hours will not have a direct impact on an employee's work permit, the consequence of a reduced salary could. Employers must continue to pay a salary that is on par with that set by the Swedish collective agreements or which is customary within the occupation or industry.

Those who lose their jobs because of COVID-19 also risk being faced with deportation if they do not secure alternative employment within 3 months. As the current rules stand, a work permit holder may be unemployed for up to 3 months at any one time; anything beyond this risks the holder from being able to extend their permit or qualify for permanent residence. As such, those working in the most vulnerable industries (e.g. hospitality, etc.), face the risk of not being able to remain in Sweden, if they do not find alternative employment within 3 months of being made redundant.

Additionally, those who do not start their employment in Sweden within four months from the date the work permit was granted also face the risk of being deported, if they do not cancel their work permit and reapply for a new one with the amended start date. Furthermore, those on existing work permits who are unable to return to Sweden and find themselves outside of the country for longer than three months also run the risk of not qualifying for permanent residence, having to leave Sweden as a result.

The Migration Agency, the authority responsible for handling applications and applying the legislation, have advised that they will be investigating what the consequences of COVID-19 are, for those applying for work and residence permits in Sweden. The Director General of the Migration Agency has informed that the Agency will take a more "generous" approach to labor migrants who have reduced work hours and received some form of government support available for those impacted.

| EY analysis

The examples outlined here show how the existing rules, if remained unchanged, puts foreign labor at risk of being deported because of COVID-19.

While other countries, such as the UK, Ireland and New Zealand, have taken some measures to protect foreign labor from the consequences of COVID-19, Sweden's authorities have decided that no such measures are necessary at this time. The Migration Agency's view will need to be followed, going forward for possible amendments of their application.

Employers with international labor in Sweden need to assess each individual's situation, to make sure that the correct salary is received by the employees, to not jeopardize a possible extension of the work permit. We also strongly advise to note that a new work permit is needed, if the employees do not have the possibility to arrive to Sweden within four months from when the permit was granted. The employers must, therefore, track and follow when their foreign labor arrives to Sweden.



Social security coverage

Introduction

Employees are normally covered by the social security system in the country of work, which for most employees would be the country in which they both work and live. The social security coverage for cross-border employees must, however, be confirmed on a case-by-case basis, since applicable legislation varies depending on domestic legislation, EC regulations and bilateral agreements.

According to the Swedish legislation, an employee should be covered by the Swedish social security system, either if the intention is to reside in Sweden for more than 12 months or if a local employment is taken. For cross-border employees within the EU, the employee should be insured in the country of work. If work is performed in at least two countries within the EU, the employee should instead be covered by the system in the residence country provided that at least 25 percent is performed in that country. Otherwise, the employee should be covered in the country in which the employer has its center of business. Certain rules apply for temporary assignments within the EU. An A1 certificate proving an employee's social security coverage is nowadays crucial to be in place for cross-border employees within the EU, in order to avoid social security obligations in more than one country.

Cross-border commuters between Sweden and Denmark can remain covered by the social security system in the country of employment even though the employee would work more than 25 percent in its residence country, by the separate Öresund-agreement between Sweden and Denmark. For

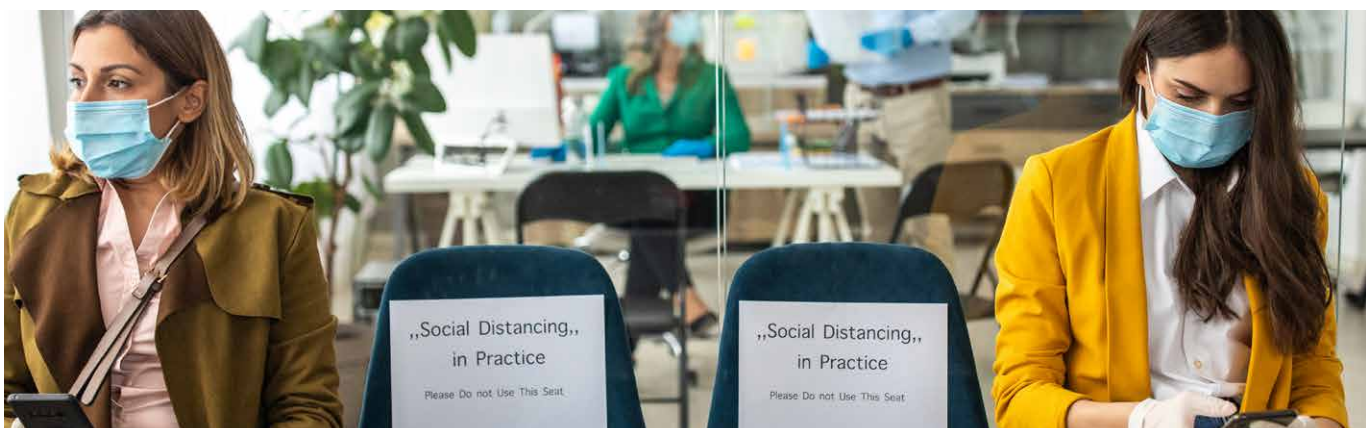
this to apply, the employee must work at least 50 percent of its time in the country of employment and the rest in the employee's home or on temporary business trips.

The country in which an employee is socially secured, is where possible social security benefits should be received from and where social security contributions normally should be paid by the employer and/or the employee. An employee's social security situation can, therefore, lead to compliance issues for the employer, if the employee is insured in a country different than the country of employment, or if the working pattern has changed. An employee's right and access to healthcare also needs to be determined .

COVID-19 impact on social security coverage

Due to the ongoing pandemic, employees may now not be able to perform work according to their normal working and travel pattern. Instead the work may be performed from the employee's home, which for daily commuters could mean that that all or a great part of the work suddenly is performed outside of the employment country.

Many Swedish residents who normally commute to Denmark for work are now performing all or a great part of the work from their Swedish home instead. If the commuter works from home to the extent that 25 percent of the working time is spent in Sweden, a Swedish social security coverage would normally apply according to the main European Commission (EC) regulation. The Danish employer would then need to register as an employer in Sweden and be liable to pay the considerably higher Swedish employer contributions.



However, the Swedish social insurance agency has agreed with its Danish counterpart, Udbetaling Danmark, on exemptions with regards to commuters' social security coverage during COVID-19. Commuters' social security coverage will not be affected by restrictions due to COVID-19, in the following situations:

- ▶ If you live in Sweden and normally work in Denmark, your social security situation will not be affected, if you must work from your home in Sweden due to COVID-19.
- ▶ If you live in Denmark and normally work in Sweden, your social security situation will not be affected, if you must work from your home in Denmark due to COVID-19.
- ▶ If you have a valid A1 certificate for work in Sweden and Denmark, this will still apply.

A previously issued A1 certificate in accordance with the separate Öresund-agreement between the mentioned countries will therefore accordingly also apply during the COVID-19 restrictions. This will help avoid a Swedish social security coverage.

The Swedish social insurance agency has further confirmed that the social security coverage of other cross-border workers will not be affected by the COVID-19 pandemic, provided, the employment and other work conditions remain the same. An issued A1 certificate for cross-border work within the EU will therefore still be accepted by the Swedish authority if the changed travel patterns is due to the pandemic restrictions.

Similar approach has been communicated by the EC, i.e., the social security coverage applicable prior to COVID-19 for frontier workers, workers who pursue activities in more than one-member state and posted workers, should not be affected by the COVID-19 pandemic. This specifically applies to workers who need to cross borders in order to reach their place of work because they exercise critical occupations by performing activities related to essential services. Further, in situations that could lead to a change of applicable legislation in regards to social security coverage of the worker, EC has stated that member states should make use of the exception provided for in Article 16 of Regulation (EC) No 883/2004 with a view to maintaining the social security coverage unchanged for the worker concerned. To apply for such an exception, the employer must submit a request to the member state whose legislation the worker requests to be subject to.

When it comes to individuals' right to healthcare, the European Commission has published certain guidelines around health measures. These guidelines reiterate that the safeguards laid down in the free movement directive must be guaranteed and ensure that non-discrimination between

member states' own nationals and EU residents/EU citizens is maintained. It also suggests that individuals who pose a risk to the local healthcare system, should have access to healthcare. However, the guidelines are silent on the type of documentation required to obtain treatment on the same basis as a national of the country concerned. According to current EU coordination rules on social security (Regulation 883/2004), EU nationals who work in one EU member state and live in another are entitled to medical treatment in both countries. These workers are already registered in the country of work and have therefore also applied for and received a so-called S1 form from a competent health insurance authority. The S1 gives the right to receive healthcare in the country where the individual lives under the same conditions as nationals who are insured in that country. The EC guidelines therefore suggest that an S1 certificate will be required if not already held, which practically may cause issues in 'real time' if the individual does not hold a S1 and has not been registered with the health insurance authorities in the country where the individual lives.

| EY analysis

Although the social insurance agencies of many EU member states like the Swedish social insurance agency, are taking a common-sense approach to any interim change of circumstance, there may be issues for employers and employees to obtain A1s and S1s where required. The turnaround time for applications for A1 and S1 with the Swedish social insurance agency was already 6-12 months before the COVID-19 outbreak.

Besides the compliance issues, access to healthcare could be the biggest concern especially in situations where healthcare entitlement is linked to contributions being paid or that the individual is affiliated to the social security system where the care is sought. Given that many healthcare systems within the EU are already overwhelmed due to the virus, this could lead to non-nationals not being given the same rights to healthcare as nationals and advising on what documentation is required to receive health care etc.?

Based on the uncertainty and heavy workload with health insurance agencies, we recommend that employers should set up processes to monitor/assess the employees that may be affected and identify situations where A1 and or S1 certificates need to be obtained, situations where an exception according to Article 16 of Regulation 883/2004 should be sought, etc. Further, for the wellbeing and safety of the employees, employers should look over the company's employee health and medical insurance/coverage as well as asking the employees to look over their health and medical insurances.

Employment law

Introduction

The parties to an employment agreement are free to choose the law to govern the terms and conditions of employment; to the extent, such choice is not to the detriment for the employee. Employees that are covered by Swedish employment law are, among other regulations regarding employment protection and co-determination in the workplace, also covered by the Swedish Work Environment Act.

COVID-19 impact on employment law

Working life is greatly affected by the prevailing pandemic due to the spread of the coronavirus. Many employees are advised to work from home to reduce the risk of infection. According to the Swedish Work Environment Act, the employer is responsible for ensuring that an employee's working environment is good. This also applies in cases where the employee works from home. To ensure a satisfactory working environment when working from home, the employer must consider both the physical conditions and how the work is organized as well as the social aspect.

The employer is obligated to provide the employee with a safe physical working environment even when the employee works from home. This includes ensuring good lighting and ergonomics, which can of course be challenging in a situation

when the employer doesn't have control over the working place physically. It is however important to react to signals from the employees regarding a poor working environment.

Regarding the organizational and social aspects of the working environment, it is important to review how communication and information should be handled within the organization during the period when employees work from home. Employees who work at home for more than a few days should be in regular contact with colleagues and managers, preferably every day. Some employees may need individual follow-ups regarding their tasks and how different tasks should be prioritized. Employers should also be responsive to employees who experience stress in their work due to the current situation.

Although the employer bears the responsibility for the working environment, the employee is obligated to participate by reporting risks that could lead to illness or accidents.

EY analysis

We recommend companies to establish work environment guidelines, including regular check-ins with the employees to ensure that a good working environment is still upheld even where employees work remotely.



Next steps and interim recommendations for employers and employees

We suggest that all employers develop a communication/ Q&A strategy regarding any affected cross border workers that confirm their situation being affected and give a point of contact and escalation in the organization to address any issues that arise. Since both employee and employer obligations can arise within several different areas, it is crucial that both parties understand their responsibilities and communicate well in this matter. Employers should take a leading role in order to educate their cross-border employees.

EY is working with clients to develop action and analysis plans to address the immediate population impacted and address both compliance and healthcare issues arising.

We also believe that much of this activity will inform mobility policies and functions going forward once the COVID-19 crisis dissipates and this will help mobilize the workforce more quickly once restrictions start to lift. Business can then go back to the 'new-normal' in a faster pace.



| Further information

For further information, please contact one of the following or your usual EY contact:



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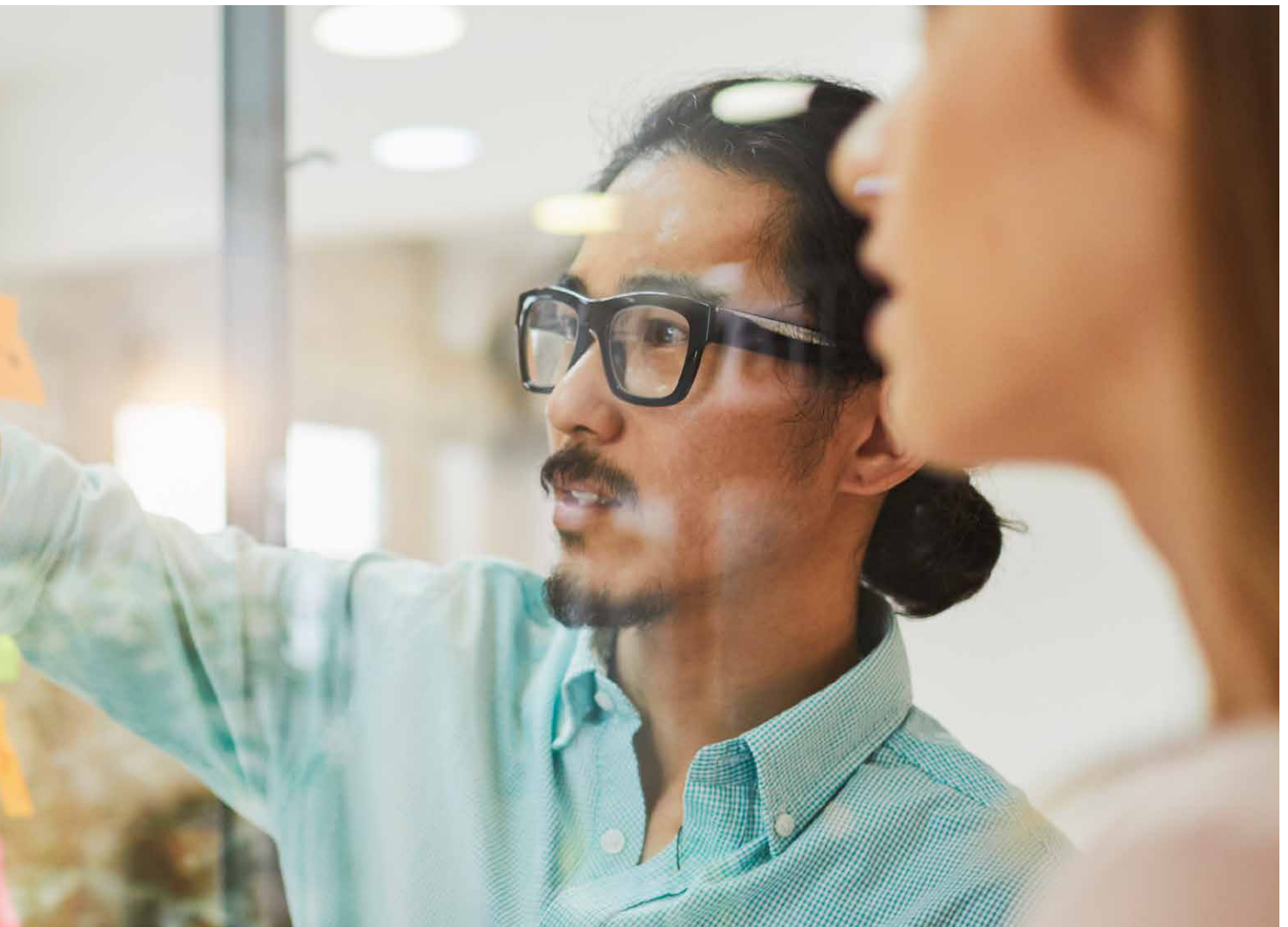
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