



## Country reports:

### **Research on the legal and tax situation of professional and mana- gerial staff (P&MS)**

National agreements and experi-  
ences concerning expatriate em-  
ployees, legal benefits and tax  
incentives for P&MS.

Vienna, September 2005

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Country reports: Research on the legal and tax situation of professional and managerial staff (P&MS).  
National agreements and experiences concerning expatriate employees, legal benefits and tax incentives for P&MS.

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## I. Foreword

This report is located in the framework of an ETUC - EUROCADRES project and should present an overview of the current situation of professionals and managers (P&MS) concerning their tax and legal situation.

There are some countries that have introduced tax incentives for expatriate managers creating a special status for managers or employees with a salary above a certain income level. On the other hand, the legal status of *manager* - if it exists - often means exclusion from collective agreements, working time regulations etc.

This research should present an overview of the specific situation of P&MS and provide the basis for discussion at a conference for EUROCADRES's mobilnet advisors in Portorož, Slovenia where experts will have the possibility to complete the document.

Arrangements that have not been taken into consideration: foreign diplomatic personnel, members of armed forces etc. and bilateral agreements (e.g. Portugal: employees of international organizations, foreign building contractors or auctioneers from NATO-related activities).

Information on taxation presents the status quo of 2004. Information concerning the application of collective agreements as well as of work and residence permit is quoted as far as available. The description of the mobilnet website was made at the end of August 2005.

## II. Country results

### II.1 Austria

According to Gerald Musger, GPA, there are certain contingents on expatriate employees from non-EU-countries and restrictions for the new member states within the transition period. Though, they legally are treated as natives. Certain exceptions concerning working time of managerial staff exist for both Austrian and expatriates. However, regulations on overtime payment are subject to collective agreements - in this particular issue natives and expatriates are treated alike. Concerning taxation there are no special legal regulations for expatriate P&MS. Individual arrangements are possible.

Foreign nationals coming to Austria to take up employment with an Austrian employer must contribute to the social security scheme on the same basis as Austrian nationals. Different treatment can be claimed under the EU Regulation 1408/21 for expatriates sent to Austria by their foreign employer. With the permission of the Austrian social security administration the employee may continue to contribute to her/his home social security plan<sup>1</sup>.

Expatriates are allowed to deduct mandatory contributions to home country's social security system from their tax base<sup>2</sup>.

In accordance with the practice of Austrian tax authorities, up to 35% of the salary of foreign employees working in Austria may be exempt from salary withholding tax provided that typical expatriate expenses (such as the maintenance of two houses or the costs of trips home for the family) are born by the employee and refunded by the employer. The 35% exemption is available in case of stay in Austria for max. 5 years.

If an individual changes his/her residence into or out of Austria during the year, this results in two different assessments, one for unlimited and the other for limited tax liability. This offers potential tax savings as the benefits of lower tax brackets may be used twice<sup>3</sup>.

Income tax exemptions apply to Austrian officials on duty in a foreign country, employees in the construction and mining business working abroad for more than 1 month and agents working in developing countries.

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<sup>1</sup> IBFD (Ed.): GET-VI, Suppl. No. 35, April 2005

<sup>2</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.21

<sup>3</sup> IBFD (Ed.): GET-VI, Suppl. No. 35, April 2005

## II.2 Belgium

Employees with annual gross income > EUR 50,554 (at the commencement of the employment, as of 2002) can individually determine a period of notice different from the legal standard with the employer (beginning of the employment after 1.4.1994 - no remark on citizenship)<sup>4</sup>.

Expatriates working in Belgium are liable to the same social security contributions as residents. Exceptions i.e. various treaties for social security have as an effect that foreigners sent temporarily to Belgium may remain subject to their own social security system for a certain period<sup>5</sup>.

Expatriates are allowed to deduct mandatory contributions to home country's social security system from their tax base<sup>6</sup>.

Foreign executives, directors, top-level specialists and research experts who have been appointed by a foreign enterprise or group to work temporarily in Belgium in an establishment or company of the foreign enterprise or group are granted a special tax regime (administrative ruling Art. 142/2 Comm. ITC). These foreigners are deemed to be non-residents on the basis of the various attachments with their home country.

Other conditions: recruitment in the foreign labour market, temporary nature of the employment in Belgium etc.

Executives are not taxable on reimbursements for extra expenses incurred as a result of their assignment or employment in Belgium, possible refunded expenses (if really result of the assignment):

- Extra allowance for accommodation and cost-of-living supplements in Belgium
- Tuition fees for children (primary or secondary education)
- Costs of one annual trip to the home country
- Loss incurred on the sale of car or equipment abroad
- Loss incurred on the sale or purchase of a residence in the country of origin
- Loss incurred on letting the residence in the country of origin
- Costs of setting up in Belgium
- Travelling expenses on account of special family events
- Exchange rate differential
- "Tax equalization"

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<sup>4</sup> Matray, Didier/Hibinger, Bernd (2003): Arbeitsrecht in Belgien, p.138, in: Henssler, Martin/Braun, Axel (Ed.) (2003): Arbeitsrecht in Europa, Cologne, p.85-178

<sup>5</sup> IBFD (Ed.): GET-VI, Suppl. No. 19, October 1999

<sup>6</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.21

- Travelling expenses of children studying abroad who visit their parents (twice annually)
- Removal costs upon moving into and leaving Belgium

These refunded expenses are deductible business expenses for the employer who must, however, demonstrate that the money refunded was actually used for the intended purpose. The compensation paid by the employer is determined on the basis of actual cost or in accordance with a flat-rate amount established on a case-by-case basis in the framework of previous administrative procedure. These reimbursed expenses may normally not exceed EUR 11.155 or 29.747,22 for employees working for centres or coordination offices.

Special non-resident status:

- Remuneration exclusively for work actually performed in Belgium and on other Belgian-source income.
- Special arrangements with neighbouring countries France, Germany and Netherlands concerning frontier workers in frontier zones - solely taxable in the country of residence<sup>7</sup>.

### II.3 Bulgaria

Expatriate employees are due to have employment permit, usually limited to 1 year.

Exemptions:

- Representatives of media
- Diplomats
- Members of executive board
- Manager
- Members of supervisory board or permanent representatives of trading company or foreign places of business
- Representatives of foreign companies who are members of Bulgarian chamber of trade and industry<sup>8</sup>.

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<sup>7</sup> IBFD (Ed.): GET-VI, Suppl. No. 27, May 2002

<sup>8</sup> Pavlov, Gentscho (2004): Arbeits- und sozialrechtliche Rahmenbedingungen in Bulgarien, p.5, in: Hainz, Bernhard/Tinhofer, Andreas (Ed.) (2004): Arbeits- und Sozialrecht in Mittel- und Osteuropa, Vienna, p.1-24

Concerning social security and taxation there are no special arrangements for expatriate employees, bilateral agreements are possible<sup>9</sup>.

## II.4 Cyprus

Expatriate employees of international business companies are exempt from general 6,3% contribution to social security insurance (max. CYP 1,911 in 2004), if the company is acknowledged as an international business company (4,25% corporate tax rate). From 1 May 2004 EU nationals employed by international business companies are expected to be liable for social security contributions<sup>10</sup>.

Taxation: Expatriates who were resident outside Cyprus before commencement of employment are entitled to 20% deduction (max. CYP 5,000/year) from remuneration earned from any office or employment in Cyprus, exemption applies for 3 years after 1 January following the year of commencement of the employment<sup>11</sup>.

## II.5 Czech Republic

Attention: special tax regime for foreign professionals, specialists if sent + non-resident-status (for "experts" abolished in 1997)

In general:

For expatriates employed by Czech or foreign entity it is optional to be subject to Czech labour law or to that of the country where the employer has its seat. If choosing the second case then no contribution will be made to Czech social security and health care system<sup>12</sup>.

Expatriates are allowed to deduct mandatory contributions to home country's social security system from their tax base.<sup>13</sup>

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<sup>9</sup> IBFD (Ed.): GET-VI, Suppl. No. 29, July 2002

<sup>10</sup> Kesti, Juhanni (Ed.) (2004): European Tax Handbook 2004, IBFD (Ed.), Amsterdam, p.145

<sup>11</sup> ib., p.146

<sup>12</sup> IBFD (Ed.): GET-VI, Suppl. No. 26, July 2001

<sup>13</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.21

1 June 1993: If the employee is sent by a foreign enterprise to the Czech Republic (CR), then s/he will enjoy a special tax treatment for professionals, experts or specialists with permanent residence outside CR. If the employee is only rendering a technical, professional or special service to a Czech company, a government body, a Czech branch or a permanent establishment of a foreign entity, then s/he will enjoy a limited tax liability in CR. S/he will be taxed only on Czech-source income, irrespective of the length of the stay in CR. The 25% tax reduction for experts has been abolished as of 1 January 1997, however limited tax liability remains available if the foreign expert is "deemed non-resident".

If the employee is seconded or temporarily assigned to a Czech-owned firm but s/he still remains on a foreign payroll while the authority to instruct these employees rests within a Czech entity, then the Czech company will be considered as the employer concerning income tax and will be required to withhold tax. At least 60% of the total amount paid by the Czech employer to the foreign company will be treated as employees' income. Expatriates treated as tax residents in CR will be eligible for all allowances <sup>14</sup>.

Non-EU-citizens: residence permit according to work permit or work permit from employment office concerned is necessary; duration max. 1 year, extension possible <sup>15</sup>

Executive personnel: employment by appointment. <sup>16</sup>

## II.6 Denmark

Final tax at a rate of 25% for employees who are engaged in research and development (OECD definition), in public or private sector, no limit on duration of stay, no minimum salary (other conditions see below)

In general:

Expatriates working in Denmark, as employees are liable to social security contributions like nationals. Taxable base includes any kind of remuneration paid in respect of the employment, taxable value of a company car, a free telephone line and subscription, employer-contributions to a pension scheme, severance payments, stocks, stock options and subscription rights. No deductions are allowed.

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<sup>14</sup> IBFD (Ed.): GET-VI, Suppl. No. 27, October 2001

<sup>15</sup> CMS (Ed.) (2003): Arbeitsrechtliche Rahmenbedingungen in Tschechien, Vienna, p.3

<sup>16</sup> Linhart, Tomáš/Schwarz, Alexander/Hladký, Radek (2003): Arbeitsrecht in Tschechien, p.1184-85, in: Henssler, Martin/Braun, Axel (Ed.) (2003): Arbeitsrecht in Europa, Cologne, p.1175-1231

No social security contributions are levied by Denmark if an individual, according to EU Regulation 118/97 of 2 December 1996, is not subject to Danish social security legislation and remains subject to the scheme of another Member State.<sup>17</sup>

Expatriates in Denmark may elect to be subject to a final tax at a rate of 25% levied on gross salary as reduced by the 8% social security contribution, the 1% special contribution (0% in 2004 and 2005), and the ATP contribution. The conditions for this expatriate taxation are that:

- Employment for max. 36-months, the contract may be extended up to 48 months, during which extension the expatriate is subject to normal income taxation as a resident. At the end of the 36-month or extension period, the expatriate must terminate residence if s/he has previously been subject to tax in Denmark as resident or has received salary from Denmark. If not, income tax calculated at normal rates for the entire period is levied. This does not apply to employees who are engaged in research and development as defined by the OECD, in either the public or private sectors. These employees can, therefore, continue their stay and employment in Denmark beyond the max. period prescribed by the expatriate regime without adverse tax consequences. During the extension period the conditions for the expatriate regime must continue to be met. Employees subject to expatriate taxation may freely change employment without adverse tax consequences, provided that the conditions for expatriate taxation continue to be met.
- The employment is with a resident employer or with a permanent Danish establishment of a non-resident employer
- The expatriate becomes resident for tax purposes on the occasion of taking up employment in Denmark. According to practice, the employment must start less than 1 month after taking up residence in Denmark.
- The expatriate does not participate, nor has participated directly or indirectly, in the management, control or capital of the employer during the employment or during a period of 5 years prior to the employment. Regarding participation in the management of a company, this test has been held to mean ownership of 25% or more of the capital or control of 50% or more of voting power, with the effect that a member of the board of a company, not being a shareholder with such participation, is eligible for expatriate taxation
- The gross salary exceeds DKK 57,300 per month<sup>18</sup> after deduction of 8% social security contribution, 1% special pension contribution (0% in 2004 and 2005) and ATP con-

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<sup>17</sup> IBFD (Ed.): GET-VI, Suppl. No. 33, June 2004

<sup>18</sup> source IBFD (Ed.): GET-VI, Suppl. No. 35, April 2005; Kesti, Juhanni (Ed.) (2004): European Tax Handbook 2004, IBFD (Ed.), Amsterdam, p.183: DKK 56,000.

tribution. This minimum salary requirement does not apply if the expatriate is engaged in an approved research project

- Expatriate has not been liable to tax as a resident prior to 3 years before taking up the employment under the expatriate regime

No nationality requirement for an expatriate taxation. <sup>19</sup>

Are P&MS subject to collective agreements? In public and financial sector: yes, 99%. In other private sectors: 15%, the rest are individual contracts, but mostly at the same level as collective agreements, or better.

## II.7 Estonia

No special provisions for expatriate P&MS concerning neither taxation nor legislation. <sup>20</sup>

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<sup>19</sup> IBFD (Ed.): GET-VI, Suppl. No. 35, April 2005

<sup>20</sup> IBFD (Ed.): GET-VI, Suppl. No. 37, March 2005

## II.8 Finland

According to the Law on Withholding Tax on Expatriates, qualifying foreign specialists and executives may apply for flat-rate tax treatment of their remuneration from work performed in Finland, instead of the progressive income taxation (including social security premiums payable by the employee) of residents. Revenue from this tax goes to the state. This regime applies to an employment, which commences no later than 31 December 2007.

Conditions:

- (a) Teacher in an academic institution,
- (b) (Not-for-profit) researcher or
- (c) Specialist earning at least EUR 5,800 per month for the entire employment period,
- (d) Employee must become resident of Finland at the beginning of the employment. S/he may not be a Finnish national or have been resident in Finland during any period in the 5 years preceding the employment.

The flat rate is 35% (the general non-resident tax rate). This tax is a final tax withheld by the employer. Calculation: net remuneration, including fringe benefits, after deduction of certain work-related expenses. No personal allowances are granted. If other income does not qualify for the flat-rate treatment, both types of income are aggregated. Personal allowances are deducted from that base, and the progressive income tax rates are applied to the remaining amount. The tax on the non-qualifying income is determined proportionally.

The expatriate must make the application for the flat tax treatment within 30 days of the commencement of the employment. The rule applies for the first 24 months of the taxpayer's employment and residence in Finland. The employment must be uninterrupted.<sup>21</sup>

Management is usually excluded from working time regulation.

## II.9 France

Regardless of nationality, expatriates working in metropolitan France (European territories) or, with a few exceptions, in the Overseas Departments are subject to the French social security system. Exemptions are possible under international agreements

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<sup>21</sup> IBFD (Ed.): GET-VI, Suppl. No. 34, November 2004

such as Social Security totalization agreements and EC regulations.<sup>22</sup> Expatriate allowances paid to foreign employees provisionally assigned to the French headquarters or logistics centres of multinational groups may benefit from a "simplified" tax regime at the request of the headquarters or logistics centres.

Conditions:

(a) Reimbursed expenses (exempt in the hands of the recipient): in particular initial "acquaintance trip" for the expatriate and his/her spouse; real estate agent's fees for finding rented accommodation; travel and moving expenses on arrival and departure; double rent in case of temporary double residence (max. 3 months); customs duties; car rental expenses on arrival and departure (for a period max. 2 months in each case), hotel expense on arrival and dep.; language course fees for the employee and his/her family; tax consulting fees and expenses of emergency trips to home country; educational expenses for the children or, if they reside abroad, of an annual trip for a family visit.

(b) Reimbursed expenses (taxable in the hands of the recipient unless the headquarters or logistics centres have elected to be taxed thereon at the corporation tax rate, in which case these expenses are exempt in the hands of the recipient): tax and social security equalization payments, accommodation equalization payments

(c) Allowances which are deemed to constitute fringe benefits: these are taxable in the hands of the recipient: expatriation indemnities other than the repayment of accommodation equalization costs which are covered in the preceding paragraph.

The application of this regime is subject to the condition that the assignment is temporary and does not exceed 6 years. Provided their assignment is temporary and does not exceed 6 years, expatriates seconded to employers other than headquarters and logistics centres may also benefit from the exemptions listed in (a) above.

From 1 January 2004, and provided they have not been tax residents in France any time during the previous 10 years, employees and senior officers of foreign companies seconded to France are entitled to a partial and temporary income tax exemption. The exemption covers the "additional" remuneration directly linked to the taxpayer establishing him/herself in France. This would include indemnities paid to compensate the additional cost for the dwelling or the additional tax or social contribution pressure resulting from living in France, the reimbursement of moving expenses, acquaintance trips and hotel expenses for the taxpayer and her/his family. The exemption is granted for a maximum of 6 years.<sup>23</sup>

Expatriates are allowed to deduct mandatory contributions to home country's social security system from their tax base.<sup>24</sup>

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<sup>22</sup> IBFD (Ed.): GET-VI, Suppl. No. 34, November 2004

<sup>23</sup> IBFD (Ed.): GET-VI, Suppl. No. 32, April 2004

Non-EU-citizens: residence permit (carte de séjour) necessary.<sup>25</sup>

## II.10 Germany

Foreign citizens employed in Germany are covered by the compulsory social security system. Therefore, foreign workers are required to pay contributions to the statutory pension insurance, health insurance, unemployment insurance, and the nursing insurance for disability and old age. However, they are not required to pay contributions to accident insurance. Contributions are payable by the employer only. No repayment upon returning.

Foreign employees seconded for a fixed period to Germany (max. 1 year, exceptional cases plus 1 year) but working for a foreign employer can remain member of their home system.<sup>26</sup>

Since 1999 there has been a special "Green Card" for IT-specialist, minimum salary 50.000€. Maximum time of stay is 5 years. Tax, social insurance and pension are the same as for all employees in Germany.

PM&S with a monthly income superior to 5.200 € can have a private health insurance.

The calculation base for pension payments does not go beyond 5.200 € monthly.

## II.11 Greece

No special provisions for expatriate P&MS concerning neither taxation nor legislation.

## II.12 Hungary

Non-EU-citizens need a residence permit and a work permit.

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<sup>24</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.21

<sup>25</sup> Temin-Socol, Nathalie/Combes, Anee Elisabeth (2003): Arbeitsrecht in Frankreich, p.301, in: Henssler, Martin/Braun, Axel (Ed.) (2003): Arbeitsrecht in Europa, Cologne, p.239-301

<sup>26</sup> IBFD (Ed.): GET-VI, Suppl. No. 35, April 2005

Non EU-citizens working as managing directors, leading representatives, members of supervisory board (if foreign investment in company) would need only a residence permit, likewise key staff of enterprises that were founded in Hungary (incl. foreign investment), such as leading personnel or personnel with special qualifications such as high technical knowledge that is necessary for provision of service of organisation, research equipment, technology or administration.

Leading personnel is not subject to collective agreements, limitation of contracts exceeding 5 years possible. <sup>27</sup>

The employment of managing directors is subject to either labour or civil law. <sup>28</sup>

## II.13 Ireland

Social insurance contributions are levied regardless of whether the employment is Irish or foreign-source for income tax purposes. (PAYE <sup>29</sup> will not be operated in the latter case.) In this situation, the employer is required to account directly for both her/his own and the employee's social security insurance contribution. When sent from abroad to Ireland for 12 month or less s/he may choose to pay social insurance contribution in the home country, for EU nationals or if social security treaties apply, max 5 years (discretion of Dep. of Soc Welfare).<sup>30</sup>

In the vast majority of cases, expatriates coming to Ireland will retain their non-Irish domiciles. This will generally entitle them to be taxed on remittances of income and gains only from sources outside Ireland and the UK. Such individuals will also remain non-ordinarily resident for a number of years. The may also be deemed to be non-resident and thus outside the scope of capital acquisitions tax in respect of certain transfers of non-Irish assets. There are generally no other special factors affecting the taxation of the income or gains of expatriates.<sup>31</sup>

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<sup>27</sup> CMS (Ed.) (2003): Arbeitsrechtliche Rahmenbedingungen in Ungarn, Vienna, p.4-5

<sup>28</sup> Gobert, Arne/Krisch, Imre (2003): Arbeitsrecht in Ungarn, p.1256-57, in: Henssler, Martin/Braun, Axel (Ed.) (2003): Arbeitsrecht in Europa, Cologne, p.1233-76

<sup>29</sup> Pay as you earn

<sup>30</sup> IBFD (Ed.): GET-VI, Suppl. No. 33, June 2004

<sup>31</sup> IBFD (Ed.): GET-VI, Suppl. No. 30, June 2003

## II.14 Italy

In order to promote the immigration of scientists into Italy, income from employment or self-employment of researchers who become resident in Italy for tax purposes from 2003 to 2008 is subject to income tax only up to 10% of its amount and is exempt from IRAP (regional tax on productive activities). The benefit applies in the tax year in which the Italian residence for tax purposes is acquired and in the following 2 tax years. <sup>32</sup>

In general:

Social security payments made to Italian entities by non-resident individuals working in Italy are not included in the employee's taxable base. However, the contribution may in no case be deducted from the aggregate income in as much as Art. 24 excludes such items from deductions allowed in computing the tax applicable to non-resident individuals. Generally, expatriates are not granted any particular tax privilege or benefit. <sup>33</sup>

Expatriates are allowed to deduct mandatory contributions to home country's social security system from their tax base. <sup>34</sup>

The employment of non-EU- or OSCE-citizens is subject to contingents. <sup>35</sup>

## II.15 Latvia

No special provisions for expatriate P&MS concerning neither taxation nor legislation. <sup>36</sup>

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<sup>32</sup> IBFD (Ed.): GET-VI, Suppl. No. 32, April 2004

<sup>33</sup> IBFD (Ed.): GET-VI, Suppl. No. 32, April 2004

<sup>34</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.21

<sup>35</sup> Radoccia, Stafania/Crippa, Anna (2003): Arbeitsrecht in Italien, p.550, in: Henssler, Martin/Braun, Axel (Ed.) (2003): Arbeitsrecht in Europa, Cologne, p.519-592

<sup>36</sup> IBFD (Ed.): GET-VI, Suppl. No. 35, July 2004

## II.16 Lithuania

No special provisions for expatriate P&MS concerning neither taxation nor legislation.<sup>37</sup>

## II.17 Luxembourg

Concerning social security contributions of expatriates a number of international instruments was signed by Luxembourg to cover migrant workers, e.g. EEC Reg. 1408/71 and 574/72.<sup>38</sup>

Expatriates are allowed to deduct mandatory contributions to home country's social security system from their tax base.<sup>39</sup>

Non-resident seamen employed on vessel flying the Luxembourg flag are subject to income tax at a flat rate of 10%, calculated on 90% of their gross salaries. Also, a deduction of EUR 870/month is granted.<sup>40</sup>

## II.18 Malta

Individuals taking up residence in Malta on the basis of "Permanent Residence Permit" (immigration law) are subject to a flat tax rate of 15% of income received or remitted to Malta (minimum tax liability of MTL 1,800 after application of double taxation relief). Scheme is granted on request if certain conditions are fulfilled.<sup>41</sup>

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<sup>37</sup> IBFD (Ed.): GET-VI, Suppl. No. 36, November 2004

<sup>38</sup> IBFD (Ed.): GET-VI, Suppl. No. 35, April 2005

<sup>39</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.21

<sup>40</sup> Kesti, Juhanni (Ed.) (2004): European Tax Handbook 2004, IBFD (Ed.), Amsterdam, p.439

<sup>41</sup> Kesti, Juhanni (Hg.) (2004): European Tax Handbook 2004, IBFD (Hg.), Amsterdam, p.462f

## II.19 Netherlands

Employees of foreign companies, who are temporarily assigned to the Netherlands, can apply for the 30% rule (formerly 35%), by which 30% of their employment income can be paid tax free to compensate specific expatriate costs (referred to as "extraterritorial costs").

### Conditions:

- Non-resident taxpayer is hired abroad by a domestic employer; employer must be an employer withholding wage tax according to Art. 6 LB
- It is no hindrance if the employee is a national of the Netherlands nor if s/he lives abroad
- The employee has to have specific know-how, which is rarely available in the domestic labour market. Specific know-how is determined by a combination of the following three conditions:
  1. Employee's level of education
  2. The net level of salary with regard to the employment in the Netherlands corresponding to that in the expatriate's country of origin and
  3. The employee's relevant working experience in respect of the specific employment. If experience is required for an employment, it has, however been clarified that this condition is deemed to have been satisfied if the expatriate has work experience of at least 2,5 years in a comparable employment outfit the Netherlands (If condition 3. is not satisfied, it may still be possible to qualify for 30% rule if 1. and 2. are satisfied.)

In general: Employees working for an international company can apply for 30% when, within the scope of normal job rotation, they are seconded to the Netherlands, provided that they are working for that international company for more than 2,5 years. 30% provision is granted for max. 120 months, starting from the date of employment in the Netherlands (will be checked by authorities, if previously employed under 30% rule, these periods will be deducted, longer visits or short employment will be deducted).

The employer can reimburse costs tax-free to the employee up to a max of 30% of the salary and a compensation for additional costs for residing in the Netherlands. The 30% rule does not apply to payments received as compensation on termination of employment.<sup>42</sup>

Expatriates working in the Netherlands are normally liable to the same state social security premiums as residents. If expatriate qualifies as a partial non-resident s/he has to pay the normal tax rate applicable to the first two brackets of income. Even if not so liable, the tax rate is 1,8% or 9,35% for 2005.<sup>43</sup>

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<sup>42</sup> IBFD (Ed.): GET-VI, Suppl. No. 32, April 2004

<sup>43</sup> IBFD (Ed.): GET-VI, Suppl. No. 35, April 2005

The employment of non EU-workers is possible only if there isn't any candidate available in the Netherlands or the EU. The position has to be announced at least during 5 weeks at the local employment office as well as at EURES. <sup>44</sup>

Managing directors are not subject to collective agreements. <sup>45</sup>

## II.20 Poland

Expatriates are allowed to deduct mandatory contributions to home country's social security system from their tax base. <sup>46</sup>

Contract with Polish employer: The employee is subject to social security and health care contributions. There is no special taxation regime for inward expatriates. <sup>47</sup>

Foreign employees: Work permit is necessary. The permit is limited to a maximum of 12 months.

Exceptions:

- Managing directors of company who are performing their duties less than 30 days/year in Poland
- Residence abroad
- Appointed employees max. 1 month in Poland
- Appointed employees max. 3 months in Poland for certain purposes (installation or adjustment of/on machinery)
- Other bilateral agreements possible. <sup>48</sup>

Managerial staff: The labour law is applicable if there is a contract of employment.

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<sup>44</sup> Oosterbeek, Simone (2003): Arbeitsrecht in den Niederlanden, p.632, in: Henssler, Martin/Braun, Axel (Ed.) (2003): Arbeitsrecht in Europa, Cologne, p.593-653

<sup>45</sup> ib., p.632

<sup>46</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.21

<sup>47</sup> IBFD (Ed.): GET-VI, Suppl. No. 37, March 2005

<sup>48</sup> Dulewicz, Katarzyna/Zakrzewska-Brzuchalska, Zuzanna (2004): Arbeits- und sozialrechtliche Rahmenbedingungen in Polen, p.54f, in: Hainz, Bernhard/Tinhofer, Andreas (Ed.) (2004): Arbeits- und Sozialrecht in Mittel- und Osteuropa, Vienna, p.51-74

Exceptions from common labour law: no claims on payment of over-time, idle periods etc..<sup>49</sup>

## II.21 Portugal

Pursuant to EEC social security regulations applicable in Portugal, EU-citizens covered by a compulsory social security system in their country of origin and working temporarily in Portugal are covered by the Portuguese social security system without having to pay Portuguese social security contribution. For other foreign employees, it should be considered whether or not they are covered by social security agreement between Portugal and their country.

There are no special provisions related to inward or outward expatriates. However, pursuant to the Tax Incentive Statute (EBF), an exemption from IRS applies under international agreements or subject to the condition of reciprocity with respect to:

- Employment income earned by professional staff of foreign diplomatic and consular bodies or international organisations
- Profits derived by foreign building contractors or auctioneers from NATO-related activities carried out in Portugal
- Earning derived by expatriates within the framework of cooperation agreements between states. Portugal applies, however, the exemption-with-progression method on such earnings.<sup>50</sup>

Non-EU-citizens need a residence permit and a written contract with certain demands concerning minimum regulations of the contents.<sup>51</sup>

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<sup>49</sup> *ib.*, p.55

<sup>50</sup> IBFD (Ed.): GET-VI, Suppl. No. 35, April 2005

<sup>51</sup> Fedtke, Eberhard/Böhm-Amolly, Alexandra von (2003): Arbeitsrecht in Portugal, p.855, in: Henssler, Martin/Braun, Axel (Ed.) (2003): Arbeitsrecht in Europa, Cologne, p.831-901

## II.22 Romania

Bilateral tax treaties with different countries concerning taxation of income and capital gains exist.<sup>52</sup>

Employment of expatriates is only possible if the expatriate have a visa and a work permit. Other arrangements through bilateral treaties are possible. There are possibilities to obtain so called "business visa" for expatriates who are members of a management or supervisory board of Romanian companies, however, a work permit is still necessary!

Contracts for managerial staff of Romanian enterprises are subject to common Romanian civil and business law.<sup>53</sup>

## II.23 Slovak Republic

Temporary employment contracts with managerial staff are not subject to the strict regulations of maximum length of these contracts (usual max. 3 years, repeated temporary employment not until after 12 months after termination).<sup>54</sup>

In general:

Foreign employees of domestic companies are subject to contributions to social security system like nationals. Foreign employees of foreign companies are excluded from this obligation. Foreign individuals conducting business in the Slovak Republic are subject to social security provisions if they earn Slovak-source business income in the capacity of a sole proprietor. A permanent establishment employing resident individuals must comply with the same rules as all permanent residents of the Slovak Republic.

Expatriates are allowed to deduct mandatory contributions to home country's social security system from their tax base.<sup>55</sup>

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<sup>52</sup> IBFD (Ed.): GET-VI, Suppl. No. 36, November 2004

<sup>53</sup> Petre, Irina (2004): Arbeits- und sozialrechtliche Rahmenbedingungen in Rumänien, p.79, in: Hainz, Bernhard/Tinhofer, Andreas (Ed.) (2004): Arbeits- und Sozialrecht in Mittel- und Osteuropa, Vienna, p.75-100

<sup>54</sup> Ružička, Jaroslav/Szabó, Sylvia (2004): Arbeits- und sozialrechtliche Rahmenbedingungen in der Slowakei, p.140, in: Hainz, Bernhard/Tinhofer, Andreas (Ed.) (2004): Arbeits- und Sozialrecht in Mittel- und Osteuropa, Vienna, p.137-155

<sup>55</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.21

Expatriates are subject to ITA, no special rules (previous ones were repealed). Foreigners are treated as residents or non-residents based on the number of days spent in the territory of the Slovak Republic. <sup>56</sup>

## II.24 Slovenia

Concerning managerial staff, the proceedings for work and residence permit are simplified. Greater latitude concerning employment contract on issues as time-limit, working time, breaks, salary, disciplinary responsibility or termination. <sup>57</sup>

In general:

Subject to International Tax Act (ITA) and a series of (Yugoslavian) treaties with different countries concerning taxation of income and capital gains.

Concerning social security there are no special arrangements for expatriate employees, if employed by entity with its seat in Slovenia. <sup>58</sup>

No payroll tax if employee remains subject to home social security system. <sup>59</sup>

Expatriates are allowed to deduct mandatory contributions to home country's social security system from their tax base. <sup>60</sup>

## II.25 Spain

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<sup>56</sup> IBFD (Ed.): GET-VI, Suppl. No. 36, November 2004

<sup>57</sup> Šnuderl, Marjana (2004): Arbeits- und sozialrechtliche Rahmenbedingungen in Slowenien, p.160, in: Hainz, Bernhard/Tinhofer, Andreas (Ed.) (2004): Arbeits- und Sozialrecht in Mittel- und Osteuropa, Vienna, p.157-173

<sup>58</sup> IBFD (Ed.): GET-VI, Suppl. No. 23, July 2000

<sup>59</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.52

<sup>60</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.21

There are different bilateral treaties concerning social security.<sup>61</sup>

There are, in general, no provision. However, subject to certain conditions, an individual who moves to Spain to work there may elect to be taxed under (a) the rules of individual income tax (i.e. taxation at progressive rates but with deduction of certain expenses and allowances) or (b) the rules of income tax on non-residents (i.e. taxation at a flat 25% rate but without deduction of expenses or allowances) in the tax year he/she moves to Spain and the following 5 tax years.

Conditions:

- Not been resident in Spain any time during the preceding 10 years
- Moves to Spain because of an employment contract
- Works physically in Spain for a company or entity resident in Spain or for a Spanish permanent resident of a non-resident entity
- Salary income is not exempt from non-resident income tax.

Fees earned directly in a treaty country by independent professionals who are resident in Spain are taxable in Spain only, while if earned in Spain directly by residents of a treaty country such fees are generally exempt in Spain.<sup>62</sup>

## II.26 Sweden

No social security contributions are due from employers on salary etc. that are exempt under the special tax regime in respect of qualifying foreign key staff members.<sup>63</sup>

For upper management, it is common with conclusions of special retirement agreements.<sup>64</sup>

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<sup>61</sup> IBFD (Ed.): GET-VI, Suppl. No. 33, June 2004

<sup>62</sup> IBFD (Ed.): GET-VI, Suppl. No. 34, November 2004

<sup>63</sup> IBFD (Ed.): GET-VI, Suppl. No. 35, April 2005

<sup>64</sup> Nordlöf, Frederik (2003): *Arbeitsrecht in Schweden*, p.1017, in: Henssler, Martin/Braun, Axel (Ed.) (2003): *Arbeitsrecht in Europa*, Cologne, p.985-1031

Special tax relief up to 3 years to qualifying foreign key staff members temporarily employed in Sweden by resident employer or Swedish permanent establishment of a foreign enterprise. Conditions:

- Taxpayer is foreign national, not been resident of Sweden at any time during 5 years preceding the year of the commencement of the temporary employment
- Stay for max. of 5 years
- Either (1) employment relates to work that requires specialist qualifications or to research or development in fields or levels of expertise in respect of which there are considerable difficulties in recruitment in Sweden or (2) taxpayer is employed in management or key position <sup>65</sup>
- Approval of Board on Taxation of researchers.<sup>66</sup>

The taxpayer's salary and other reimbursements for the qualifying work are subject to ordinary rules of income taxation, but only 75% of income is taxable. Reimbursements for moving costs, homeleaves or school fees are not taxable income. <sup>67</sup>

Top executives are not subject to collective agreements, also if company does not belong to a labour market organisation collective agreements do not apply. <sup>68</sup>

## II.27 United Kingdom

Concerning the social security, the UK respects its obligations under EU treaties and regulations. There are reciprocal arrangements with all EU countries except Greece, as well as bilateral arrangement with other countries. <sup>69</sup>

Payment or reimbursement of travelling costs of employee to and from her/his home and UK is tax-free if individual is in the UK for continuous period of 60 days or more to perform duties.

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<sup>65</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.33; IBFD (Ed.): GET-VI, Suppl. No. 27, May 2002

<sup>66</sup> Kesti, Juhanni (Ed.) (2004): European Tax Handbook 2004, IBFD (Ed.), Amsterdam, p.642

<sup>67</sup> Pricewaterhousecoopers/ZEW (Ed.) (2005): International Taxation of Expatriates, Frankfurt/Main, p.33; IBFD (Ed.): GET-VI, Suppl. No. 27, May 2002

<sup>68</sup> Malin Tumegård

<sup>69</sup> IBFD (Ed.): GET-VI, Suppl. No. 33, December 2003

For spouse or children to accompany or visit: two return journeys for any one individual in a tax year. These deductions are limited to a period of 5 years from arrival in the UK, following a period of at least 2 years when s/he was not present in the UK<sup>70</sup>.

Managerial staff: employment contracts are negotiated individually. Characteristics: no financial benefits for directors (compensations), notice period max. 12 months<sup>71</sup>.

Executive staff: no application of 48 hour-regulation (standard weekly hours).<sup>72</sup>

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<sup>70</sup> IBFD (Ed.): GET-VI, Suppl. No. 33, December 2003

<sup>71</sup> Harth, Angela/Taggart, Andrew (2003): Arbeitsrecht in Großbritannien, p.405f, in: Henssler, Martin/Braun, Axel (Ed.) (2003): Arbeitsrecht in Europa, Cologne, p.397-453

<sup>72</sup> *ib.*, p.410

III. Overview of all country results

Type of benefit	Austria	Belgium	Bulgaria	Cyprus
special provisions for expatriate P&MS	no	if appointed: exemptions from personal income tax.  Requirements: foreign executives, directors, top-level specialists and research experts who have been appointed by a foreign enterprise or group for temporary work in Belgium	no	no
<b>Taxation</b>				
tax exemptions for foreign employees in general				10% deduction (max. CYP 0,000/year) from remuneration earned from any office or employment in Cyprus, exemption applies for 7 years after 1 January following the year of commencement of the employment.  Requirements: residence outside Cyprus before commencement of employment
tax exemptions for foreign employees for moving etc., if born or reimbursed by employer	up to 10% from salary withholding tax.  Formal requirements: duration of residence max. 10 years			
<b>Working conditions</b>				
special arrangements / P&MS subject to collective agreements?	certain exceptions concerning working time of managerial staff are possible, however, regulations of payment of overtime is subject to collective agreements	individual determination of period of notice	no work permit necessary	
formal requirements	managerial staff	annual gross income higher than EURO 0,000	managers, representatives etc.	

Type of benefit	Czech Republic	Denmark	Estonia
special provisions for expatriate P&MS	if appointed: 70% tax reduction.  Requirements: foreign professionals or specialists who have been appointed by foreign enterprise and non-resident-status	tax rate 70% (optional).  Requirements: employees who are engaged in research and development as defined by the OECD, in either the public or private sectors, no limit on duration of stay, no minimum salary	no
<b>Taxation</b>			
tax exemptions for foreign employees in general		tax rate 70% (optional)  requirements: employment for max. 36 months (extension up to 54%); resident employer or Danish permanent establishment of non-resident employer; expatriate becomes resident; no participation in management, control or capital of the employer; gross salary exceeds DKK 07.200 per month (does not apply if the expatriate is engaged in an approved research project); no liability to tax as resident prior to 7 years	
tax exemptions for foreign employees for moving etc., if born or reimbursed by employer			
<b>Working conditions</b>			
special arrangements / P&MS subject to collective agreements?		In public and financial sector: yes, 99%. In other private sectors: 10%, the rest are individual contracts, but mostly at the same level as collective agreements, or better.	
formal requirements		P&MS	

Type of benefit	Finland	France	Germany	Greece
special provisions for expatriate P&MS	<p>flat tax rate 70% for the first 72 months of the taxpayer's employment (optional).</p> <p>requirements: academic teacher, researcher, specialist (min. wage EUR 6.100/month); resident of Finland; employment commences no later than 31 December 2006; employment must be uninterrupted; application for flat tax treatment must be made within 70 days of the commencement of the employment.</p>	no	no	no
<b>Taxation</b>				
tax exemptions for foreign employees in general				
tax exemptions for foreign employees for moving etc., if born or reimbursed by employer		<p>yes, not subject to personal income tax</p> <p>formal requirements: expatriate allowances paid to foreign employees provisionally assigned to French headquarters or logistics centres of multinational groups, temporary assignment (max. 7 years)</p>		
<b>Working conditions</b>				
special arrangements / P&MS subject to collective agreements?	Management is usually excluded from working time regulation			
formal requirements	Management			

Type of benefit	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg
special provisions for expatriate P&MS	no	no	10% of income subject to income tax, also exempt from regional tax on productive activities.  Formal requirements: scientist, expert; benefit max. 7 years.	no	no	no
<b>Taxation</b>						
tax exemptions for foreign employees in general						
tax exemptions for foreign employees for moving etc., if born or reimbursed by employer						
<b>Working conditions</b>						
special arrangements / P&MS subject to collective agreements?	1) no work permit for certain key staff necessary;  2) no application of collective agreements, limitation of contracts exceeding 0 years possible					
formal requirements	1) enterprise was founded in Hungary (incl. foreign investment): leading personell, special qualifications (high technical knowledge that is necessary for provision of service of organisation, research equipment, technology or administration);  2) leading personell					

Type of benefit	Malta	Netherlands	Poland	Portugal	Romania
special provisions for expatriate P&MS	no	no	work permit necessary, given only limited, max. 12 months, exceptions: managing directors of company who are performing their duties less than 30 days/year in Poland, residence abroad, appointed employees max. 1 month in Poland, appointed employees max 3 months in Poland for certain purposes (installation or adjustment of/on machinery), other bilateral agreements possible.	no	"business visa" for members of management
<b>Taxation</b>					
tax exemptions for foreign employees in general	flat tax rate of 10% .  "Permanent Residence Permit"; income received in or remitted to Malta				Bilateral tax treaties with different countries concerning taxation of income and capital gains.
tax exemptions for foreign employees for moving etc., if born or reimbursed by employer		application for 30% tax free income for max. 10 years  if appointed or working for intl. Concern for more than 3,0 years; hired abroad, specific and rarely available know-how (level of education, net level of salary, working experience)			
<b>Working conditions</b>					
special arrangements / P&MS subject to collective agreements?		Managing directors are not subject to collective agreements.	labour law applicable if contract of employment, exceptions from common labour law: no claims on payment of overtime, idle periods etc.		business visa, but also work permit necessary
formal requirements		managing directors	managerial staff		managerial staff

Type of benefit	Slovak Republic	Slovenia	Spain	Sweden	United Kingdom
special provisions for expatriate P&MS	duration of employment contracts managerial staff (see below)	work and residence simplified, greater (see below)	no	10% of income tax free up to 5 years:  requirements: qualification, development if requested the labour market management or key temporarily employed (max. 5 years); no Swedish during preceding	
<b>Taxation</b>					
tax exemptions for employees in general			choice between progressive income tax (deductions) or flat 10% (without deductions) 5 years.  Requirements: no residence during preceding 5 years; employment employee works physically Spain; salary income is exempt from non-resident income tax		
tax exemptions for employees for moving etc., if born or recruited by employer	no	no		yes, not subject to non-resident income tax.  requirements: qualification, development if requested the labour market management or key temporarily employed (max. 5 years); no Swedish during preceding	yes  Requirements: period of 14 days to perform spouse/children accompany or visit: journeys for an individual in a tax reliefs max. 5 years arrival in the UK, a period of at least when s/he was not in the
<b>Working conditions</b>					
special arrangements P&MS subject to agreements	Temporary employment with managerial staff are not subject to the strict of maximum length of these	Concerning managerial staff the proceedings work and residence simplified, greater concerning employment contract: time-working time, salary, responsibility,		no application of agreements	conclusion of contracts that negotiated individual financial benefits directors no application of regulation for staff, notice period months

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[www.eurocadres.org/mobilnet](http://www.eurocadres.org/mobilnet)

CYP Cyprus pound

CZK Czech koruna

DKK Danish krone

ITA International Tax Act

MTL Maltese lira

P&MS professional and managerial staff