



w3.expatsolve.com

Leonard Levin

www.mrweiser.com
6-15-2006

EXPATRIATE PAYROLLS: ISSUES AND SOLUTIONS

- I. EXPATRIATES
 - A. Outbound
 - B. Inbound
- II BASIC RULES
 - A. Outbound
 - 1. US citizens, permanent residents
 - 2. Taxable on worldwide income, regardless of where earned and regardless of where received
 - B. Inbound
 - 1. Taxable in US only on US source income if nonresident
 - 2. Taxable in US on worldwide income if resident in US
 - 3. Statutory definition of resident
 - Present in US more than 183 days in calendar year or
 - Present in US and total days more than 183 counting current year 100%, 1st prior year 1/3rd, 2nd prior year 1/6th
 - 4. State may follow US rule or have its own definition
 - 5. Treaty rule
 - More than 183 days in current year
 - Closer connection tiebreaker if dual resident
- III SOCIAL SECURITY
 - A. Outbound
 - 1. Totalization Agreement designed to prevent dual coverage in both US and foreign country
 - 2. US employer must conclude 3121(I) agreement with US Treasury to cover US citizens and residents working for foreign affiliated companies (10% ownership)
 - B. Inbound
 - 1. Subject to US social security and medicare unless totalization agreement applies
 - 2. US employer should retain copy of foreign continued coverage
- IV TAX RETURNS
 - A. Outbound
 - 1. Must file US return,
 - 2. Sec.911 exemption – earned income up to \$82,400/year computed on daily basis
 - 3. Excess foreign housing expenses – limited to not more than 14% of \$82,400 [actually, 30% of base exclusion less 16% non-deductible]
 - 4. Sec. 911 exclusion requires physical presence outside US (330 of 365 days) or bona fide residence for entire calendar year in foreign country



- and no statement to foreign country that person is not tax resident
- 5. US tax rate on income in excess of sec.911 exclusion based on total income (rate on income up to \$30,650 is 15%, next bracket is 25% up to \$74,200, then 28% on amount up to \$154,800)
- 6. Foreign tax credit limited to amount of US tax on foreign income
- 7. Foreign tax credit reduced for sec. 911 exclusion
- 8. Should also file in foreign country – planning
- 9. US income tax treaties have source of income rules – govern which country has primary right to tax, which grants credit (or exemption)

B. Inbound

- 1. File US Federal and State returns –
- 2. Joint return cannot be filed unless status elected and income for entire year included (with foreign tax credit)
- 3. Non-resident, taxable only on US income, no dependents, no joint, must file married separate, and must use itemized deductions

V EXPAT POLICY

A. Use of standard policy avoids “reinventing the wheel” for each assignment

B. Standard terms

- 1. Length of assignment
- 2. Who is the employer (US or foreign – watch out for doing business issues)
- 3. Base compensation – do not confuse allowances with base comp. Consider how salary increases are to be determined
How to deal with salary differences between US and foreign office
- 4. Pension, savings, stock options – how to continue coverage
Stock option rules, timing of income vary among countries
- 5. Housing allowance
- 6. Living allowance – consider phase out over time
- 7. School allowance
- 8. Home leave – how often, combine with business, class of travel
- 9. Moving costs (including temporary living arrangements) – who pays US or foreign entity
- 10. How currency fluctuation will be handled

C. Tax equalization

- 1. What items are taxable (in US, in foreign country)
- 2. Limit tax burden to what employee would have paid (Federal and State) if he or she had not moved (no disadvantage)
- 3. Fix tax at same as if employee had not moved (no burden or benefit)
- 4. Use outside advisors for tax return preparation and control of tax equalization – and to insure compliance with tax laws