

Important changes in international social security

EC Regulation 883/04

Within the European Union there is an important regulation that co-ordinates where someone is covered for social security. This regulation is called EC regulation 1408/71. However, it is expected that as of May 1, 2010 a new regulation will enter into force, EC regulation 883/04.

This memorandum will describe the most important changes to help you to prepare for this new regulation. It focuses on the social security position of employees.

Allocation rules

The main rule of the new regulation will not change. An employee will be covered under the social security system of the member state where he works.

However, the rules for working in more member states simultaneously and secondments will change. Besides the rules for employees working in international transport will change.

Working in more Member States simultaneously

Old situation: if an employee is working in more member states he is covered for social security in the member state where he lives if he also performs employment activities in that state.

If an employee is working in more member states but not in the member state where he lives, he is covered for social security in the member state where his employer is located.

New situation: if an employee is working in more member states he will be covered for social security in the member state where he lives if he also performs a *substantial* part of his activities in that member state. The word 'substantial' does mean that at least 25 percent of the time or remuneration will be spent or earned in the member state where the employee lives.

If no 'substantial' part of his activities are spent in the member state where the employee lives he will be covered for social security in the member state where his employer is located.

Secondment situation

Old situation: an employee who is seconded by his employer to work in another member state for a period of less than twelve months remains covered for the social security system of the member state where he normally performs his activities. The period of twelve months can be extended for another twelve months due to unforeseen circumstances.

New situation: an employee who will be seconded by his employer to work in another member state for a period of less than 24 months will remain covered for the social security system of the member state where he normally performs his activities. No extension will be possible anymore.

However by mutual agreement it will be possible to remain covered in the member state where he normally performs his activities for a longer period (see below).

Employees in international transport

Old situation: employees working in international transport who were working in more member states are covered for social security in the member state where the employer or branch is located. If this person is mainly working in the member state where he lives, the social security system of this member state is applicable.

New situation: under the new regulation there are no special rules anymore for employees working in international transport. The social security position of such employees will be determined according the general rule for working in more member states simultaneously. In most cases this implies that these employees will become covered for social security in the member state where they live.

Exceptions by mutual agreement

Under the current regulation if an employee will be assigned to another member state for a period of between one year – five years, the member states involved can agree that the social security system of the member state of origin remains applicable. Under the new regulation this will not change.

Employee in one country, self employed in other country

Currently an employee can be covered under the social security system of more member states at the same time. This occurs especially if the employee is considered employee in one member state and considered self-employed in certain another member states. Under the new regulation this is not possible anymore and

the social security system of only one member state would be applicable at the same time.

Transition rules

Based on the transition rules of the new regulation, situations that exist on April 30, 2010 will continue to follow the rules of the current regulation for a maximum period of ten years as long as all facts remains the same. However, upon request you can apply for the rules of the new regulation. If this request will be filed within three months after March 1, 2010, the new situation will apply as of May 1, 2010.

Actions required

1. Check whether you have employees working internationally
2. Validate the situation of the above mentioned employees to the rules mentioned in this memorandum
3. Contact Grant Thornton if the social security position of one or more of your employees will change under the new regulation or if you doubt whether the social security position of your employees is correct.

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