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Catherine Mathieu

GORDON S. BLAIR

LAW OFFICES | PRIVATE CLIENT & CORPORATE SERVICES

Gordon S. Blair Law Offices

- Since it was first established over 80 years ago, Gordon S. Blair Law Offices has provided legal and tax advice mainly in Monaco and in the south of France
- Today, Gordon S. Blair Law Offices delivers services in the Human resources sector with an emphasis on employment law, working relations, international mobility, packages of remuneration, etc.

Questions

**Expatriation or
secondment ?**

**Which social security
scheme ?**



**Which
compensation &
benefits package ?**

**Which employment
contract ?**

Leading questions upon departure

- What is the country of destination?
- What is the nationality of the employee?
- Does the employee depart alone or with his/her family?
- How long will the expatriation last?

Preparation for departure

- Immigration: obtaining work permit / visa
- Social security scheme: is there an existing bilateral agreement?
- Design of a remuneration package: applicable tax law and determination of cost of leaving allowance (housing, school fees, etc.)
- Employment contract

Which employment contract ?



3 types of employment contracts

- local employment contract
- mission
- expatriation

Local employment contract

- applicable law of the host country
- applicable social security scheme of the host country
- applicable tax law of the host country

Mission

- the employee is transferred on a short term basis
- the employee remains on his/hers home-country company's payroll
- the employee will not replace another assignee who is ending his/her short term assignment
- social security rules determine the maximum period of the assignment
- the employee remains under his/her home social security scheme and becomes a tax resident of the host country

Expatriation

- the employee has been specifically hired to work abroad
- the employee is transferred by his/her home-country employer for an undetermined period of time
- contribution to the local social security scheme and/or to the home country's (depending on existence of bilateral agreement)
- the employee is liable to local tax law

Necessary clauses in the employment contract

- identification of the parties, titles and duties
- purpose of the assignment
- place and duration of the assignment
- applicable law and collective bargaining agreement
- structure of the remuneration package, currency of payment, allowances connected with expatriation
- optional tax equalization system
- conditions of repatriation

Main differences between mission and expatriation (1/2)

Mission	<ul style="list-style-type: none">• Mandatory contribution in home-country's social security scheme• Contribution exemption to the local social security scheme
Expatriation	<ul style="list-style-type: none">• Mandatory contribution to the local social security scheme• In addition, obligatory contribution to social security scheme of home-country

Main differences between secondment and expatriation : employer's cost (2/2)

	Home country: Belgian Contract	Secondment from Belgium to France	Expatriation to France
Gross salary	50 000 €	50 000 €	50 000 €
Employer's soc. sec. contribution	6 000 €		22 500 €
Total cost to the employer	56 000 €	56 000 €	72 500 €

End of the assignment

- what happens at the end of the assignment and upon return to the home country?
- under which conditions?
- what about the eventual termination of the contract?

Pitfalls to avoid

- the terms of the assignment could or not determine the continuity of the initial employment contract
- conclusion of the contract in the subsidiary company doesn't exclude the termination of the initial employment contract
- home company is liable for repatriation in case of lay off in the subsidiary company

Other questions



Contacts

Catherine Mathieu
GORDON S. BLAIR
3 rue Aurégia BP 449
M.C. 98011 Monaco Cedex

Tel direct: + (377) 93 25 84 06

Assistant's : (84 32)

Mobile : + (377) 6 13 61 27 33

Fax : + (377) 93 25 79 58

catherine.mathieu@gordonblair.com