



GES NewsFlash

Germany – Taxation of Reimbursed Business Expenses

December 1, 2009

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Summary

The German wage tax rules regarding the reimbursement of business expenses have been amended as of January 2008. According to the wording of the new rules, it might be that an assignment limited in time qualifies as a temporary business trip and that therefore reimbursements of business expenses could – within certain limits and under certain preconditions - be made tax-exempt.

Regulations until December 31, 2007

Until December 31, 2007 reimbursements of the assignee's costs for home trips, German accommodation and per diems could be considered as (partially) tax-exempt, if the double housing regime was applicable. In order to qualify for double housing very strict preconditions have to be fulfilled.

The regulations regarding the tax-exempt reimbursement of business expenses could not be applied, if the assignment was planned to last longer than three months, as the new place of work of in Germany was considered to become the new regular place of work.

New regulations as of January 01, 2008

In the amended wage tax rules regarding the reimbursement of business expenses, the original regulation that a place of work becomes automatically the regular place of work after a three months period has been abolished. Therefore, if the assignment is limited in time and if it is planned that the assignee returns to his prior place of work, the assignee can be in the position that the German place of work does not become his regular place of work. In this case the assignment could qualify as temporary business trip.

As a consequence, for instance, the employer can reimburse the German accommodation tax-exempt. Furthermore, there would be no need to calculate and tax a benefit in kind regarding the use of a company car for commuting between home and place of work.

Deloitte's View

The German tax authorities did not provide binding rules for how they exactly define a temporary business trip under the new rules and whether these rules apply for international assignments. Therefore, in order to avoid any conflicts within a possible wage tax audit, we advise our clients not to apply this rule in the German payroll without asking the German tax office responsible for the respective client's German wage tax matters for their preapproval in the form of a binding ruling.

People to Contact

If you have any questions concerning the issues in this GES NewsFlash, please contact one of the tax professionals as follows:

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