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International hires: pensions

For managers active in the international arena, a change of employer typically leads to a change of domicile and/or place of work and thus encompasses a change of the social security and pension affiliation. Today the social security and pension systems are, to a great extent, coordinated between Switzerland and the EU, the European Free Trade Association and major third states (such as the US, Canada and Australia). In practice however, developing and implementing suitable and appropriate pension solutions for managers and C-level employees in the international context is frequently challenging with regard to the applicable pension legislation, the domestic and international taxation considerations and on a technical level. These challenges should be proactively addressed on a case-by-case basis when negotiating an international hire's overall compensation package.

This is because, in the context of international hires, managers and C-level employees increasingly recognise pension solutions offered by their prospective employer as part of their overall compensation. In doing so, international candidates not only pay attention to the contributions deducted from their gross salary but also to future pension benefits and the option to include (foreign) pension accruals in their prospective pension.

Applicable legislation

The mandatory pension legislation applicable to a manager (and any other employee) in the international context typically follows the manager's social security affiliation. Social security affiliation results, on an individual basis, from numerous factors such as the manager's citizenship and residence, local legal qualification and weighting of further professional activities and governing body activities. To ensure coverage by a Swiss pension provider, a manager should be affiliated with the Swiss social security legislation. The manager may achieve this by relocating to Switzerland, commencing further professional activities in Switzerland or abroad or by ceasing to conduct the professional activities outside of Switzerland.

Regarding communication with Swiss and foreign authorities and pension providers, it is advisable to apply for a certification of the manager's social security affiliation in Switzerland (for example, a certificate of coverage or a form A1) with the competent Swiss social security authorities and to keep this accessible in the manager's human resources file. To ensure the smooth performance of declarations, contribution payments and the issuance of statements (for example, salary certificates) for Swiss pension, social security and tax purposes, collaboration with an experienced payroll provider in Switzerland has proven its worth – particularly if no employer in Switzerland is obliged to declare and pay the social security contributions on the manager's compensation.

Pension solutions

The choice of a pension solution is usually driven by financial considerations. A key element is the amount and structure of contributions to mandatory, and in most cases also to voluntary (so-called supra-mandatory) pension plans. Depending on the applicable pension regulations, the contributions are at least partially structured as deductions from the manager's gross compensation (employees' contributions must not exceed 50% of the total contributions). However, if the employee's contributions are borne by the employer they are, mostly, considered as taxable income from a Swiss tax perspective. Furthermore, the manager's option to purchase additional voluntary coverage (so-called pension buy-in) is an important element for tax planning and enhancing future pension accruals. Finally, interest rates applied to pension accruals and the structure of pension payments (a monthly pension versus a lump sum) are also relevant, particularly for senior managers. Non-financial aspects are often also considered. These include the: availability of documentation in English; experience and flexibility of the pension provider regarding international hires; and, compatibility of offered solutions with existing (foreign) pension accruals.

Domestic and international tax-related aspects on the managerial level should also be considered. These include the: deductibility of ordinary and extra-ordinary pension contributions from taxable income; recognition of pension accruals as segregated assets out of the scope of the manager's wealth taxation; taxation (at source or by way of withholding) of lump sum pay-outs and pensions in Switzerland and abroad; and, tax neutrality of transfers of pension accruals to vested benefits accounts, Qualifying Recognised Overseas Pension Scheme (QROPs) accounts and the like. The taxation aspects on the level of the employer should also be evaluated and, if necessary, discussed with the competent tax authorities to achieve well-balanced solutions. Relevant factors include the: deductibility of pension contributions for the purposes of corporate income tax; accounting of pension accruals (depending on accounting standards); and, levy of pension contributions on one-time payments (bonus, employee participation plan benefits, severance payments, and so on).

Finally, the possibility of complementing mandatory pension solutions with non-mandatory components should be evaluated from a legal and fiscal angle.

Depending on the circumstances of each case, international management and C-level hires may entail a broad range of challenges in the pension, social security and taxation arenas. Diligent analysis and planning of the pension situation, as well as an evaluation of the available options in the contract negotiations, may help to avoid unwanted surprises regarding future payouts and tax consequences. Further, employers with international hires should ensure that payroll and the related declaration, certification and payment obligations are handled professionally.

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