EsopCentre

BEYOND BREXIT: EU-UK SOCIAL SECURITY CONTRIBUTION RULES

Jeremy Edwards, Partner, Baker & McKenzie LLP London

Don-Tobias Jol, Partner, Baker & McKenzie LLP Amsterdam

Webinar

Wednesday 24 February 2021 11:00am

FS Club

A Word From Today's Chairman

Professor Michael Mainelli

Executive Chairman

Z/Yen Group

FS Club

Invest Northern Ireland
Finance Montréal
CDI China Development Institute
GT Global Times Consulting
Seoul Together we stand
HK Financial Services Development Council 香港金融發展局

Platinum Sponsors

LuxembourgforFinance Agency for the Development of the Financial Centre
Casablanca Finance City القطب المالي للدار البيضاء
Dubai International Financial Centre
AIFC
Abu Dhabi Global Market
Busan Finance Center

Gold Sponsors

PeerNova
Aptitude Software
Bridgeworks
Feature Space
Outsmart Risk
Arboretum
Crown Agents Bank
Ceridian

Silver Sponsors

P2 Consulting
Bottomline
BCS Consulting Expect Excellence
Praxity™ Empowering Business Globally
GPS global processing services
The Technium Global SERVICE WITH INTEGRITY
expert.ai

Bronze Sponsors

Profile Software
(expleo)
Contact Partners
alyne
Estates and Infrastructure Exchange®

Personal Sponsors

Challenge Curve
Currencycloud
worldpay
mastercard
RADIX
ZB
LEI Global Legal Entity Identifier Foundation
cuffassociates
Volante
The Transparency Task Force
Cygnetise
Catalina Consulting
AMSOM
Gibraltar Stock Exchange

EsopCentre

Tier One Sponsors

Baker McKenzie. · Bird & Bird · Clifford Chance · CMS Law . Tax · Computershare · Deloitte. · Doyle Clayton Workplace Lawyers · BT · EQ · Global Shares · howells · ING · KKR · Kleinwort Hambros Societe Generale Group · Lewis Silkin · Linklaters · LINK Market Services · mm&k · Ogier · OCORIAN · Pinsent Masons · pwc · RBC · Rm2 · SANNE · Shareworks by Morgan Stanley · Travers Smith · VG · White & Case · Willis Towers Watson · YBS Share Plans · ZEDRA Do more. Achieve more.

Tier Two Sponsors

cytec solutions · fieldfisher · Investec · LGL Group Experience Excellence · MACFARLANES · PettFranklin Helping share growth · SHAREFORCE

Tier Three Sponsors

ABBISS CADRES · bms. · David Craddock Consultancy Services · GANNONS Solicitors · GORE · TTP Group · Vestrata · WRIGLEYS SOLICITORS

Today’s Agenda

EsopCentre

- 11:00 – 11:05 Chairman’s Introduction
- 11:05 – 11:25 Keynote Address
- 11:25 – 11:45 Questions & Answers

Today’s Speaker

Jeremy Edwards

Partner

Baker & McKenzie LLP London

Don-Tobias Jol

Partner

Baker & McKenzie LLP Amsterdam

Baker McKenzie.

Beyond Brexit- EU-UK Social Security Contribution Rules

Jeremy Edwards, London- Jeremy.edwards@bakermckenzie.com
Don- Tobias Jol, Amsterdam- Don-Tobias.Jol@bakermckenzie.com
Wednesday, 24 February 2021

Introduction

Jeremy Edwards is a partner and the head of the Employee Benefits Group in Baker McKenzie's London office. He advises on all aspects of employee share plans and employee taxation. Jeremy has over 24 years' experience as a share plan lawyer and two years' experience as a corporate lawyer. He is currently serving on the advisory panel of ProShare and is a regular speaker at share plan conferences held in the United Kingdom.

Jeremy has substantial UK experience, including implementing plans for UK-listed companies and dealing with issues arising for UK-listed companies, including advising on executive remuneration developments, UK tax issues and the position on cessation of employment and dealing with share plans in the context of corporate transactions. He has extensive experience in connection with the implementation of share plans globally and working with multinational clients.

Introduction

Don-Tobias Jol is a partner within the Amsterdam Tax practice with over 20 years of experience. His key area of expertise is global compensation and benefits, and he focuses on the fields of executive, equity and broad-based compensation.

Within executive compensation, Don-Tobias assists multinational corporations in creating strategically aligned reward packages that comply with the relevant tax, legal and corporate governance rules. In the field of equity compensation, he designs share-based remuneration plans, and also advises on remuneration in case of mergers, acquisitions, IPOs and private equity transactions. When consulting on broad-based compensation, he offers wage and income tax as well as social security advisory for both local and expatriate employees, including issues such as salary splits, severance payments, corresponding pension approvals, immigration law et cetera.

Don-Tobias is a frequent author and speaker on a variety of international remuneration issues, and currently serves on the Board of Directors of the Global Equity Organization (GEO). He is a member of Baker McKenzie's Global Employment & Compensation Practice Group, and heads the Firm's Dutch Compensation & Benefits advisory team.

Agenda

1. Introduction
2. Overview of new Social Security Protocol
3. Transitional Provisions
4. Practical Planning Points
5. Switzerland, Norway, Iceland
6. Netherlands Example
7. Q&A

First Poll

Does your company know what it needs to do when sending an employee over to the Netherlands or other EU jurisdiction on a secondment?

A) Yes

B) No

C) Not Sure

Overview of the new Social Security Protocol

The overall aim is to prevent the worker from having to pay double social security contributions. The Protocol specifies that affected workers will be subject to the legislation of only one state, determined in accordance with the Protocol

What the new Social Security Protocol achieves

Original Concerns	Achievement
No social security agreement between the UK and the EU, leading to double social security contribution liability	Framework agreement achieved so that existing position of no double social security contributions
Reliance on old archaic agreements	One agreement with the EU- and now all EU member states have signed up to the detached worker rules
New procedures for secondments not known in time	By February 2021, procedures are largely sorted
Exportability of benefits/ aggregation of benefits	Both aspects are covered- but some benefits not covered

Multi State Workers

The new rules

- Largely, continue the existing EU Social Security Regulations
- Base rule under the Social Security Protocol- a person pursuing an activity as an employed or self-employed person in a state shall be subject to the legislation of that state
- But under the multi state rules, the applicable legislation will depend on the specific facts of the individual including residence, where the work activity is substantially carried out and the location of the registered office/place of business of the relevant undertaking/employer.,

1. State of residence: substantial activity if more than 25%
2. If not substantial work in state of residence, look where the employer is located
3. Project forward 12 months

Detached Workers

Social Security Protocol

- For temporary postings for up to 2 years
- Remain subject to home country (not host country) social security
- No ability to extend (but what if “pop in” UK after 2 years?)

Transitional Provisions

All assignments to and from the UK which started pre-1 January 2021 can still be covered with an A1 Certificate as long as the underlying working pattern does not change.

Protocol applies to assignments starting after 1 January 2021, or existing assignments that have changed sufficiently to no longer be covered under an existing A1 Certificate.

See Practical Planning Points section below.

Practical Planning Points

UK HMRC Guidance for temporary moves to the UK updated 12 February 2021: https://www.gov.uk/guidance/social-security-contributions-for-workers-coming-to-the-uk-from-the-eea-or-switzerland?email=&source=updateemail#history

Impact of COVUK HMRC Guidance for moves from the UK updated 12 February 2021: https://www.gov.uk/guidance/national-insurance-for-workers-from-the-uk-working-in-the-eea-or-switzerland?email=&source=updateemail#history

Consider if the assignment can be for less than 2 years

Reassess costs implications

Practical Planning Points

What about UK-based employees employed by EU companies? Will such companies be subject to UK employer National Insurance contributions?

- Yes. An employer with a registered office or place of business outside a state shall comply with all obligations as if it had a registered office or place of business in that state, i.e., effectively deeming them to have a registered office or place of business for social security contribution purposes. Therefore:
    - Where an EU company has employees in the UK, it will still be liable to pay employer National Insurance contributions and account for employee National Insurance contributions.
    - Conversely, UK companies will have to pay employer social security contributions and account for employee social security contributions for any of its EU-based employees, even if the UK company is not resident in the EU.

Norway, Switzerland and Iceland

Separate social security agreements

Periods of postings:

Norway- up to 3 years

Switzerland- up to 2 years

Iceland- up to 1 year (but extendable)

Second Poll

You are faced with a scenario where a UK citizen is sent to the Netherlands for 2.5 years after 1 January 2021? Would you shorten the secondment to 2 years?

A) Yes

B) Not Sure

C) Would Look Into It

D) No

Netherlands

Example of benefit application

The Free Trade Agreement (FTA) includes a Protocol on social security coordination, which broadly replicates the existing rules on social security coordination in EU Regulation 883/2004. As a result, social security payments should still only be due in one state at a time.

The material scope of the social security section in the Free Trade Agreement is almost identical to the scope of EU Reg. 883/2004, with a slight difference. Family benefits are not in the scope of this agreement.

For the Netherlands this means that **child benefits** (Dutch: ‘AKW’ or ‘Algemene Kinderbijslagwet’) are excluded. Dutch **Long Term Care** (Dutch: ‘Wlz’ or ‘Wet Langdurige Zorg’) and **Health Care** (Dutch: ‘Zvw’ or ‘Zorgverzekeringswet’) are included, but some limitation to receiving benefits may apply.

Analysis on a case by case basis is needed, specifically as every Member State has indicated what is in and outside scope in this Protocol.

Questions And Answers

EsopCentre

Tier One Sponsors

Baker McKenzie. · Bird & Bird · Clifford Chance · CMS Law. Tax · Computershare · Deloitte. · Doyle Clayton Workplace Lawyers · BT · EQ · Global Shares · howells · ING · KKR · Kleinwort Hambros Societe Generale Group · Lewis Silkin · Linklaters · LINK Market Services · mm&k · Ogier · Ocorian · Pinsent Masons · pwc · RBC · RM2 · SANNE · Shareworks by Morgan Stanley · Travers Smith · VG · White & Case · Willis Towers Watson · YBS Share Plans · Zedra Do more. Achieve more.

Tier Two Sponsors

cytec solutions · fieldfisher · Investec · LGL Group Experience Excellence · Macfarlanes · PettFranklin Helping share growth · Shareforce

Tier Three Sponsors

Abbiss Cadres · bms. · David Craddock Consultancy Services · Gannons Solicitors · Gore · TTP Group · Vestrata · Wrigleys Solicitors

FS Club

Invest Northern Ireland
FINANCE MONTRÉAL
CDI China Development Institute
GT Global Times Consulting
Seoul Together we stand
HK Financial Services Development Council 香港金融發展局

Platinum Sponsors

LuxembourgforFinance Agency for the Development of the Financial Centre
CASABLANCA FINANCE CITY القطب المالي للدار البيضاء
Dubai International Financial Centre
AIFC
ABU DHABI GLOBAL MARKET
Busan Finance Center

Gold Sponsors

PEERNOVA
Aptitude Software
BRIDGEWORKS
FEATURE SPACE
OUTSMART RISK
ARBORETUM
Crown Agents Bank
CERIDIAN

Silver Sponsors

P2 CONSULTING
Bottomline
BCS CONSULTING Expect Excellence
PRAXITY Empowering Business Globally
GPS global processing services
The Technium Global SERVICE WITH INTEGRITY
expert.ai

Bronze Sponsors

Profile Software
(expleo)
CONTACT PARTNERS
alyne
ESTATES AND INFRASTRUCTURE EXCHANGE

Personal Sponsors

Challenge Curve
Currencycloud
worldpay
mastercard
RADIX
ZB
LEI Global Legal Entity Identifier Foundation
cuffassociates
Volanté
The Transparency Task Force
CYGNETISE
Catalina Consulting
AMSOM
GIBRALTAR STOCK EXCHANGE

Resources

Esop Centre website & newspad

About · What is Eso? · Awards · News · Events

Home » newspad

newspad

The Esop Centre's *newspad*, edited by Fred Hackworth, is a monthly publication providing in-depth coverage of the main international news in the employee share ownership field.

NB Reminder: The email address of Fred Hackworth, editor of *newspad*, has now changed to: fred_hackworth@zyen.com (please note the under-score). Please send all press releases, company bulletins and news items for *newspad* to the above address. Thank you.

Febuary 2021

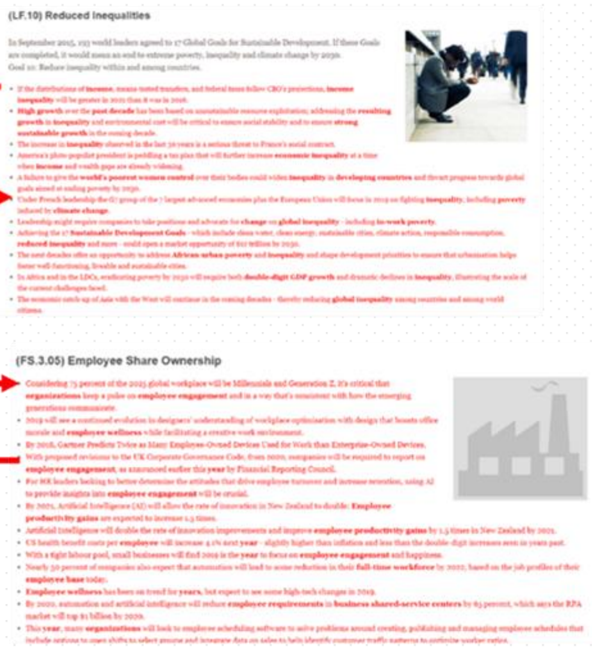
In this month's edition:

- Don't punish employee shareholders, Chancellor told
- BA to regain its independence?
- Register now for the Centre's online symposium – March 23-25
- Farah Ballands to step down from Ocorian
- Companies: AO World, Arcadia, BBC, Cineworld, Countrywide, Credit Suisse, Deliveroo, Dr Martens, Ferguson, Future, Informa, JP Morgan, Lookers, Tesco, Share Soc & The Hut Group
- CMS and new share compliance app
- Covid and the economy
- Executive bonuses to be targeted by proxy advisors

To subscribe:
https://esopcentre.com/news/newspad/

FS Club Bulletins

From 43,000 curated sources, you get a machine summary of the key point(s) from forward-looking articles, not just article titles:



To subscribe:
https://fsclub.zyen.com/#Subscribe

Thank You For Listening

EsopCentre

Forthcoming Events

- Monday 1 Mar (15:00) — Money For Nothing - The Making & Unmaking Of Modern Finance
- Tuesday 2 Mar (10:00) — A Fresh Approach To Risk Management
- Thursday 4 Mar (10:00) — Switzerland’s Wealth Management Industry: Winning Or Losing Ground In Times Of Covid?
- Friday 5 Mar (11:00) — How To Be Happy
- Tuesday 9 Mar (09:00) — Achieving Sustainability In Developing Markets: A Case Study With Serious Shea & Cleo Organics

Visit https://fsclub.zyen.com/events/forthcoming-events/