

RUSSIA

As per 1 January 2020

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EXPATRIATE AND EMPLOYER TAX COMPLIANCE AND ADVISORY

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| Personal Income Tax Rates – Employment Income | General personal income tax rate for residents is 13% (except for rates for specific types of income). The tax rate applicable to non-residents is 30% (except for 15% tax rate on dividends from Russian companies). Highly Qualified Specialists (HQS) are entitled to 13% tax rate on income received from the Russian employer (irrespective of tax residence status). |
| Tax Rate | 13%, 30% |
| Tax period | 1 January to 31 December (calendar year). |
| Tax residency / Domicile according to domestic law | Tax residence is determined based on number of days physically spent by individual in Russia in a calendar year. The presence in Russia for 183 days or more in a calendar year leads to status of tax resident of individual. If individual spends 182 days or less in Russia in a calendar year, he/she is considered tax non-resident in Russia. The special tax residence rules are applicable to 2020 year (due to coronavirus outbreak). The Russian Tax Code provides the opportunity for an individual to apply for recognition as a tax resident of Russia, if the physical presence of individual in Russia is from 90 days to 182 days in 2020 for the purpose of filing a personal income tax return for the period of 2020 (the special application to the Tax Authorities from individual is required). |
| Tax registration | Tax registration is required, if individual files a tax return or obtains the status of HQS. |
| Employment income definition | Employment income includes remuneration in cash or in kind, including various types of taxable benefits (e.g., bonus, cost of living allowance, rental compensation/ accommodation, corporate car for personal use, severance payments etc.). |
| Examples of tax exemption | Reimbursement of properly documented business expenses (including business trip expenses, per diems, etc.). |
| Specific expatriate concession | Foreign nationals can obtain the status of Highly Qualified Specialist (“HQS”) and enjoy significant tax and migration benefits. Remuneration paid to the HQS by a Russian employer is not subject to obligatory social insurance contributions (except the payment of the accidental insurance contribution in the amount of 0,2% in most cases). In order to qualify for the HQS status, the annual remuneration paid to the employee should be not less than 2000kRUB. |
| Income of board members | The income of board members is treated as ordinary taxable income (Russian source income if received from a Russian company). |
| Tax returns | Personal income tax return should be filed to the Russian Tax Authorities by 30 April of the year following the reporting year. Late filing penalties apply. |
| Tax payments | By 15 July of the year following the reporting year. Late payment interests apply. |
| Tax on real estate property | |

TAX TREATIES

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| Employment income / income from board members | Russia has signed over 80 double tax treaties (DTT) which prevail over the Russian legislation, (however the application of their provisions is usually quite bureaucratic and time-consuming). |
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INTERNATIONAL SOCIAL SECURITY

Cross border employments

Income for work performed in Russia should be – technically – subject to obligatory social insurance contributions. Obligation to pay obligatory social insurance contributions is levied on the employer as a whole legal entity, therefore, representative offices and branches of foreign employers in Russia should pay obligatory social insurance contributions even on income paid abroad by the head offices. In absence of registered presence of the foreign employer in Russia, there is no practical mechanism to pay Russian obligatory social insurance contributions.

Exception under Art 16 of Reg. 883/2004

Not applicable

and Art 17 of Reg. 1408/71**Social Security Cost as % from gross salary and absolute amounts**

Russian obligatory social insurance contributions depend on migration status of the expatriates and consist of 4 elements:

- medical insurance contributions,
- social security contributions,
- pension contributions,
- accidental insurance contributions.

For 2020,

- 5,1% : medical insurance contributions only for foreigners with residency permit applies to the whole annual gross remuneration.
- 2,9% : social security contributions for foreigners with residency permit applies to the gross annual remuneration up to 912 kRUB (1,8% for foreigners temporarily staying in Russia) + 0% on the exceeding part.
- 22% : pension contributions for foreign nationals on the annual gross remuneration up to 1292 kRUB + 10% on the exceeding part.
- 0,2% to 8,5% : accidental insurance contributions depend on the class of professional risk (0,2% in most cases).

Remuneration paid to expatriates with the status of Highly Qualified Specialists is not subject to obligatory social insurance contributions except to accidental insurance contribution (0,2% in most cases).

IMMIGRATION**Work permit**

3 general types of work permits in Russia:

- HQS (highly qualified specialist) – the most preferable type
- Non-HQS – less preferable, it requires to pass an exam on Russian language/history and legislation knowledge and medical tests
- Patent – for citizens of CIS (citizens of some CIS countries are exempted of patent obtainment – Belorussia, Kazakhstan, Armenia, Kirgizia)

Benefits of HQS work permit:

- 13% tax rate on income paid by the Russian employer
- Exemption from social charges (except on accidental insurance contributions – 0,2%)
- Visa with 3 years of validity
- Exemption from registration with the migration services during 90 days after the arrival in Russia.

Visa

A visa is required for the foreign citizens entering Russia except for the CIS citizens.

Main types of visas:

- Tourist visa : up to 30 days (requirement: a tourist voucher or the confirmation of an hotel reservation)
- Business visa : 1) up to 90 days with 1 or 2 entries or 2) up to 365 days with multi-entries and the right to stay in Russia 90 days on each period of 180 days (requirements: invitation issued by MIA, for EU citizens – letter from a Russian company)
- Work visa – up to 1 year with multi-entries (up to 3 years for HQS) without limitation on the duration of the stay in Russia (requirement: an invitation issued by the Federal Migration Service).

Residency permits / registration certificate

Foreign citizens entering Russia are obliged to receive a registration within 7 working days after their arrival in Russia (for HQS this term is prolonged to 90 days). The registration is made by the hotel, the host party, the owner of the apartment.
Foreigners having decided to live in Russia for a long time are allowed to apply for:

- Temporary residency permit (term of validity – 3 years) or
- Permanent Residence (term of validity – 5 years).

Both documents provide the right to work in Russia without work permit.

Driving license

Foreigners are allowed to use in Russia a driving license issued in their country of origin. Russian driving license is required only when driving is a job duty.

STOCK OPTION PLAN

There is no special tax legislation with respect to stock option plans in Russia. However, following general provisions of the Russian Tax Code, exercise and sale of shares are considered taxable events for individuals.

ARTICLE 15 OF THE OECD MODEL

183 days

There are no specific rules for DTT application. Under general personal income tax rules, 183 days shall be calculated based on physical presence of the individual on the territory of Russia: both days of arrival and days of departure shall be taken into consideration.

Notion of employer

The employer is determined under the Russian labour legislation : it is a person with whom the employee has valid employment contract.
The concept of economic employer is generally not recognized. Such concept is based purely on factual circumstances and shall be proved in court. There is court practice available in respect of labour disputes, however, we've never seen its application to DTT issues.
We admit though that the Russian tax authorities tend to study OECD guidelines, therefore, we cannot exclude change in the approach in nearest future.

Existence of a permanent establishment

See the criteria of the tax treaty.
Russian national PE determination criteria:

- active business activity through a division (branch, representation, division, bureau, office, agency or any other economically autonomous subdivision or other place of business of that organization) in Russia;
- dependant representatives acting on behalf of the company in Russia.

Ownership of real estate in Russia as itself does not lead to PE, however, income or gains from such real estate will lead to PE.
In practice, the Russian tax authorities has virtually no experience in determination whether an activity of a foreign company in Russia leads to creation of a PE. All court cases are about determination of the status of already registered presence of foreign company in Russia. The court practice, however, is scarce, not detailed and inconsistent.



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