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Counting the Days

How a short assignment stays outside the host country's tax net, the conditions that quietly break the relief, and what shadow payroll is for.

Short-term assignments: day counts, treaty relief and shadow payroll

Payroll & mobility · Published by Legal Quotient Consultants

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A short assignment can be exempt from tax in the host country under the treaty, but the exemption has several conditions and most assignments that fail do so on one nobody checked. The day count is only the first of them.

Who this is for

- Employers sending staff on assignments of weeks or months rather than years.
- Mobility and payroll teams running an assignment population across several countries.
- Employees on assignment who want to know why a shadow payroll appears on their payslip.

The relief, and its conditions

The employment article of most treaties allows the host country to tax employment income for work performed there, then carves out an exemption for short presences that satisfy several conditions together. Typically those conditions concern the length of presence in a defined period, who the employer is and where it is resident, and whether the cost of the employment is borne by a presence of the employer in the host country.

The conditions are cumulative. Satisfying the day count and failing the employer condition means no relief, and it is the employer conditions that most often break: an assignment recharged to a host-country entity, or one where the host entity effectively directs and benefits from the work, can fail even for a very short presence. Our page on theemployment income articlesets the conditions out.

Counting days is harder than it sounds

Different rules count different things. Some count days of physical presence including partial days, some count days of work, some count over a calendar year and some over any rolling twelve-month period. Travel days, weekends spent in the country, holidays and days of illness may or may not count. A count made under the wrong rule is not evidence of anything.

The other half of the problem is that a count without records is an assertion. Boarding passes, hotel receipts, calendar entries, expense claims and building access logs are what turn a spreadsheet into a defensible position. Employers who require employees to maintain a travel calendar as a condition of expense reimbursement get this almost free; everyone else reconstructs it under pressure. Our page onmobility calendars and day trackingcovers practical methods.

Shadow payroll, and why it exists

Where an employee remains on the home country payroll but has become taxable in the host country, the host country still expects withholding and reporting on local compensation. A shadow payroll is a host-country payroll that reports and withholds on that compensation without actually paying it — the employee continues to be paid at home, and the shadow payroll settles the host obligation.

It sounds like an administrative nicety and it is usually the only workable answer. Getting it right requires the home payroll data to flow to the host payroll in time, agreement on which elements of compensation are host-taxable, and a reconciliation at year end. Where equity or bonuses vest during the assignment, the allocation between countries has to be worked out rather than guessed. Our page onshadow payrollcovers the operating model.

Who bears the cost: equalisation and protection

Assignments frequently move an employee into a higher overall tax burden, and employers respond with a policy. Tax equalisation keeps the employee in the same net position as if they had stayed home, with the employer taking the benefit or the cost of the difference. Tax protection reimburses the employee only where the assignment leaves them worse off.

Both create their own tax questions, because a payment of the employee's tax by the employer is itself usually taxable compensation, which is taxable again, and the resulting gross-up has to be computed. A policy chosen without modelling that is a policy whose cost nobody has estimated. Our page onequalisation and protection policiescompares them.

Business visitors are assignments too

The population that causes the most unmanaged exposure is not the formal assignee — it is the frequent business visitor. Nobody sets up a payroll for a three-day trip, and a senior person making twelve three-day trips a year to the same country may have crossed a threshold, created a presence for the employer, or both.

The control is the same as for a remote work policy: know who travels where, count it centrally, and set a review trigger at a level below any threshold that matters. Our page onshort-term business visitorscovers how that is run in practice.

Running an assignment cleanly

The relief is established before the assignment starts or it is argued afterwards.

1. **Scope the assignment before it starts** Duration, host entity, who directs the work, who bears the cost, and what the employee will actually do. Each of these feeds a treaty condition.
2. **Test every condition, not just the days** Presence period, employer residence, and whether the cost is borne by a host-country presence. All must hold for the exemption to apply.
3. **Settle social security first** Apply for the certificate of coverage before departure. It is the one document that is materially harder to obtain retroactively.
4. **Decide the payroll model** Home payroll with relief where the exemption holds, shadow payroll where it does not, and a data flow between the two either way.

5. **Track days from day one** A calendar with corroboration, maintained by the employee and checked by the employer, tested against the specific counting rule that applies.
6. **Reconcile at year end** Compare actual days against the assumption, allocate equity and bonus income between countries, compute any equalisation gross-up, and file in both places.

Papers to gather

What an assignment file should contain:

- Assignment letter or secondment agreement, with duration and reporting lines.
- The recharge arrangement between home and host entities, if any.
- A day-by-day travel record with corroborating documents.
- Compensation breakdown including allowances, benefits, bonus and equity.
- Certificate of coverage application and outcome.
- Any host-country withholding waiver application and outcome.
- Home and host payroll reports for the assignment period, reconciled.
- The equalisation or protection policy, and the calculation applied to this employee.

Where it goes wrong

- **Checking the days and nothing else** The treaty conditions are cumulative. Assignments recharged to the host entity, or effectively directed by it, fail the employer conditions regardless of how short the presence was.
- **Counting under the wrong rule** Calendar year versus rolling twelve months, physical presence versus workdays, and the treatment of partial days all change the answer. A count made under the wrong rule is not a position.
- **Leaving equity out of the allocation** Options and share awards that vest across an assignment are allocated between countries by the workdays over the relevant period. Ignoring it produces a mismatch that surfaces when the award is exercised or sold.

Questions this raises

Is a short assignment automatically exempt from host country tax?

No. The treaty exemption depends on several conditions being satisfied together, including who the employer is and whether the employment cost is borne by a presence in the host country. A short presence alone does not secure it.

What is shadow payroll actually for?

It reports and withholds host-country tax on compensation that continues to be paid by the home payroll. The employee is paid once; the host country receives the withholding and reporting it requires. It is usually the only workable model for an assignee who stays on home payroll.

Do weekends and travel days count towards a day threshold?

It depends on the rule being applied. Some count days of physical presence, including partial days and non-working days; others count workdays. Because the rules differ, the count has to be made under the specific rule that applies to your situation.

How is a bonus that vests during an assignment allocated?

Generally by reference to where the employee worked over the period the award relates to, rather than where they were when it was paid. That means the allocation needs the day records for the earning period, not just for the payment date.

What to do next

For a population of assignees and travellers, the first useful deliverable is an exposure map: who has been where, for how long, against which thresholds. It almost always finds one person nobody was tracking.

We scope assignments, run the applications and operate shadow payroll at a fixed fee agreed before work starts. See day-count rules in practice, assignment letters and secondments and the days-in-country tracker.

Legal Quotient Consultants

Cross-border and international tax. Fixed fees agreed in writing before work starts, quoted from your own documents.

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