

HR & Tax Alert


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Belgium – Totalization Agreement between Belgium and Japan

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Executive summary

So far, the social security status of individuals temporarily assigned from Belgium to Japan and/or vice versa, has been addressed through the domestic social security provisions of each jurisdiction. This is due to change and will in the future be also addressed through Treaty provisions since a “Totalization” Agreement has been signed between Belgium and Japan and will enter into force on 1 January 2007. The Agreement will have a considerable impact on the social security status of employees and self-employed persons who are internationally mobile and take up positions on a temporary basis in one of those two jurisdictions.

Introduction

On 3 November 2006, the Belgian Official Gazette published the Act ratifying the Social Security Agreement concluded on 23 February 2005 between Belgium and Japan, (hereafter ‘the Agreement’). The Agreement will enter into force on 1 January 2007.

The Agreement includes provisions dealing with the following:

- determination of the legislation applicable to internationally mobile employees,
- totalization of periods of enrolment in the state social security schemes,
- non-discrimination principle
- ability to export/transfer welfare benefits (e.g. pensions).

Content of the agreement

Contributions

The basic principle provided by the Agreement is for an employee or self-employed person to be liable to the social security of the country where he/she is working. However, as an exception to the principle, employees who are posted by their employer to the other signatory country can continue to be insured under their home social security scheme provided that the assignment to the other jurisdiction is scheduled for a limited period of maximum five-years. Subject to the consent of the relevant authorities of both countries however, the five-year period can possibly be extended in extraordinary circumstances.

For individuals already on assignment when the Agreement comes into force it should also be possible to obtain an exemption in the host location for the full 5 years irrespective of the length of the period they have already been in the host location

The agreement explicitly covers the situation where an individual is simultaneously engaged in a self-employed activity in Belgium (for instance in their capacity as a company director) and also works as an employee for a Japanese employer. Where an individual spends at least for half of his time working in a capacity of employee in the territory of Japan and also serves as a member of the board of a Belgian company but is not specifically compensated for those duties, he can qualify for an exemption from the payment of Belgian self-employed contributions. In

