

Organisation of cross-border personnel supply:

(X = foreign person delegates s.o., Y = Slovak company, at which the employee is used, Z = foreign employee seconded)

Version A „delegation - secondment“

- Z is legally employee of X.
- The personnel expenditures with X are invoiced to Y without extra charge.
- X agrees with Y, that Z works at Y.
The conditions of this contract should be formulated that Y is regarded economically as employer, i.e.:

- ☐ X does not carry any risk for results of working of Z
- ☐ the instruction right is situated with Y
- ☐ the work will be executed at places subject to the supervision of Y
- ☐ the remuneration will be calculated on the basis of the working hours or there exists another relationship between this remuneration and the paid wages
- ☐ the whole tools and materials are provided by Y
- ☐ number and qualification of the persons sent are not exclusively determined by X

Consequence:

- taxation of Z in the activity state (by Y)
- no permanent establishment is founded by X in the activity state

However, if the national tax administration of Y should assume a permanent establishment of X, it comes to no disadvantages, because X does not obtain a gain from the permanent establishment.

Special feature for managing directors:

X should not be partner of Y.
As the managing director cannot be subject to instructions of the employer (of Y), the economic classification of Z as employee of Y can possibly be one point of discussion (arguments against it: also national managing director has a contract of employment; the managing director is subject to the instructions of the partner).

Version B „consultation“

- X agrees with Y contractually to produce certain advisory services for Y
- X bills the advisory services Y with consultant daily rates, which normally contain mark-ups
- Z is „ordinary“ employee of X.

Consequence:

- X does not found a permanent establishment in the state of Y, if no own rooms are used.

Attention!

The income of the permanent establishment X is subject to tax in the Slovak Republic as well as the income of the employees performing work for the permanent establishment.

Note:

In case that a fixed place or facility (office, office desk, workshop, workplace, place of sale, technical equipment) is used for the activities in Slovakia, these activities will lead to the formation of the permanent establishment.

- Z is not taxable in the activity state if he is not longer that 183 days per calendar year present in the activity state and permanent establishment did not arise. In case that X performs more activities in Slovakia and one of them will lead to the formation of the permanent establishment, all activities are attributable to that permanent establishment.