

Did you know?



British
High Commission
New Delhi



Deputation of employees to India may increase the tax cost, thereby hindering access to global talent.

Issue 5: Salaries paid to employees on overseas secondment

Increasing globalisation has resulted in the fast-growing mobilisation of personnel across various countries. This results in frequent secondment or deputation of employees to or from other countries. Typically, in an inbound secondment scenario, the overseas company deputing the personnel to an Indian company pays the full or part of the salary and other emoluments to the employee on behalf of the Indian company to which such personnel are deputed. Such payments are then reimbursed by the Indian company to the overseas company. Under such arrangements the following typical issues arise:

- Whether such reimbursements made by Indian entity to an overseas entity towards salary and other costs in relation to the deputed employees should be taxable in India as being payment in the nature of service fees
- Whether presence of such deputed personnel create a permanent establishment for the deputing entity in India



Impact

Companies may generally find it difficult to have deputations in India, thereby hindering access to global talent.

Proposed solution

- In cases where the employees deputed to the Indian company work under the control and supervision in relation to the business of the Indian company, the 'economic employment' lies with the Indian company. In such cases, the amounts paid by the Indian company to the foreign company are merely 'cost reimbursements' for the salaries paid on the Indian company's behalf and, therefore, should not be exigible to tax in India as 'fee for technical service'. Further, presence of such employees should not be held to create a permanent establishment for the overseas company in India.
- Suitable guidelines may be provided to clarify the above position.

PwC-India British High Commission joint tax project seeks to understand direct tax issues faced by UK-based companies in India