



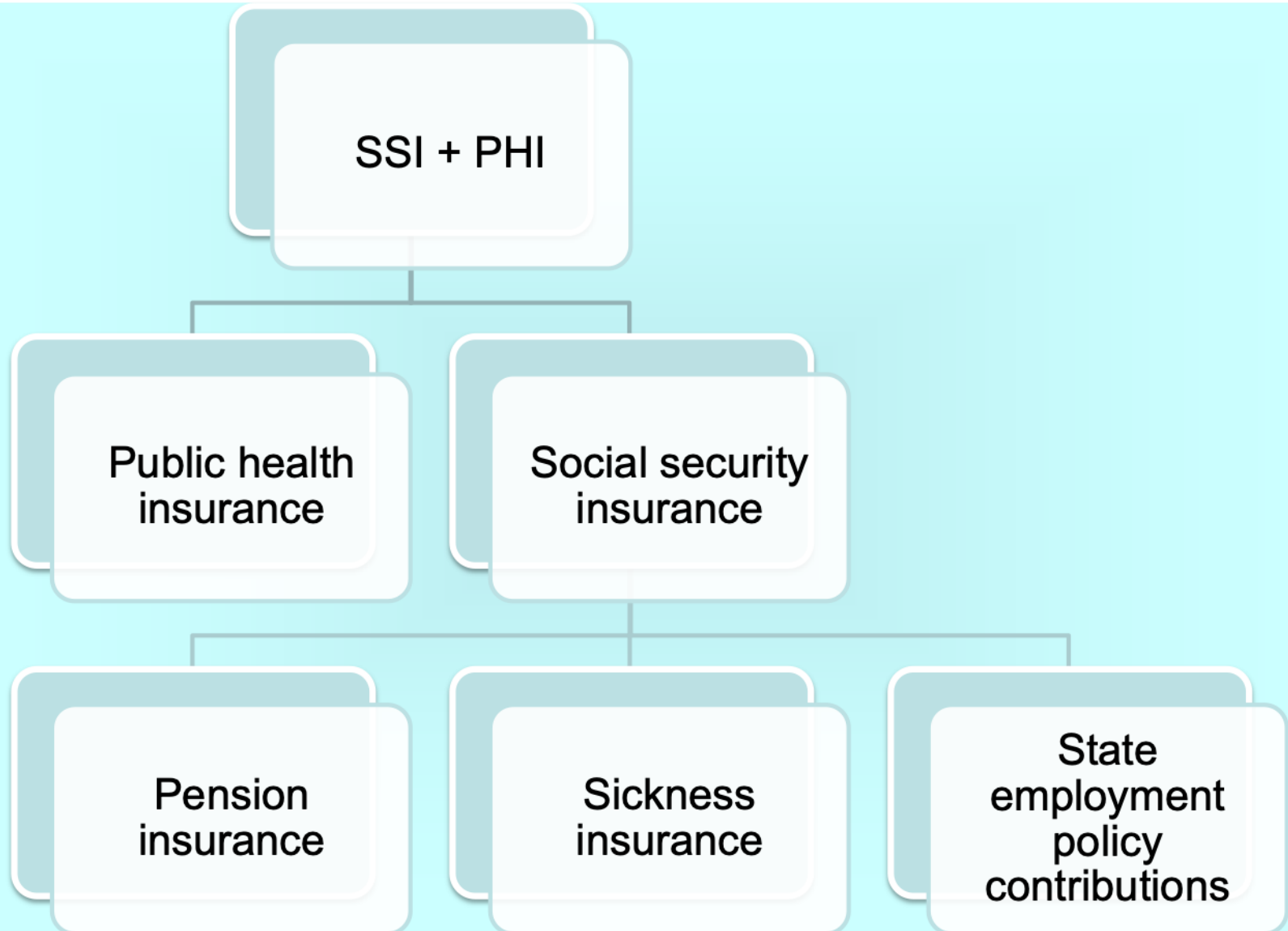
EVROPSKÁ UNIE  
Evropské strukturální a investiční fondy  
Operační program Výzkum, vývoj a vzdělávání



# Social Security Insurance and International Employment

WWW.VSE.CZ

# System of SSI + PHI



# International Social Security Coordination

- Coordination is based on international agreements among countries
- International agreements ensure that individuals may claim the benefits in relevant insurance systems
- Impact of EU coordination regulations within EU
- Regulated by bilateral social security treaties negotiated between two countries

# Types of International Employment

- International employment and the issue of expanding global markets (especially within EU – free movement of employees).
- Importance of international agreements guarantee that employees travelling across borders may claim social benefits.
- Types of international employment:
  - **Local employment** (foreign employee is employed in the Czech Republic or Czech employee is employed by a foreign company abroad)
  - **Posting of an employee** by a Czech company in order to perform work abroad
  - **Hiring out of employees** – Czech company hires out one of its employees in order to temporarily provide employment activities to a foreign company abroad.

# Local Employment (1)

- Income tax:
  - Local employment has only a limited international element, because there is no cross-border invoicing of costs.
  - Parties involved will have to apply the **double tax treaty** signed between the Czech Republic and the worker's home country.
- Obligations of the employee:
  - **Obligations are the same as the duties of the Czech company's regular employees.**
  - Employee is mostly not required to file an income tax return.
  - If the employee is not required to file a tax return, he may ask the Czech company to perform his **annual tax reconciliation.**

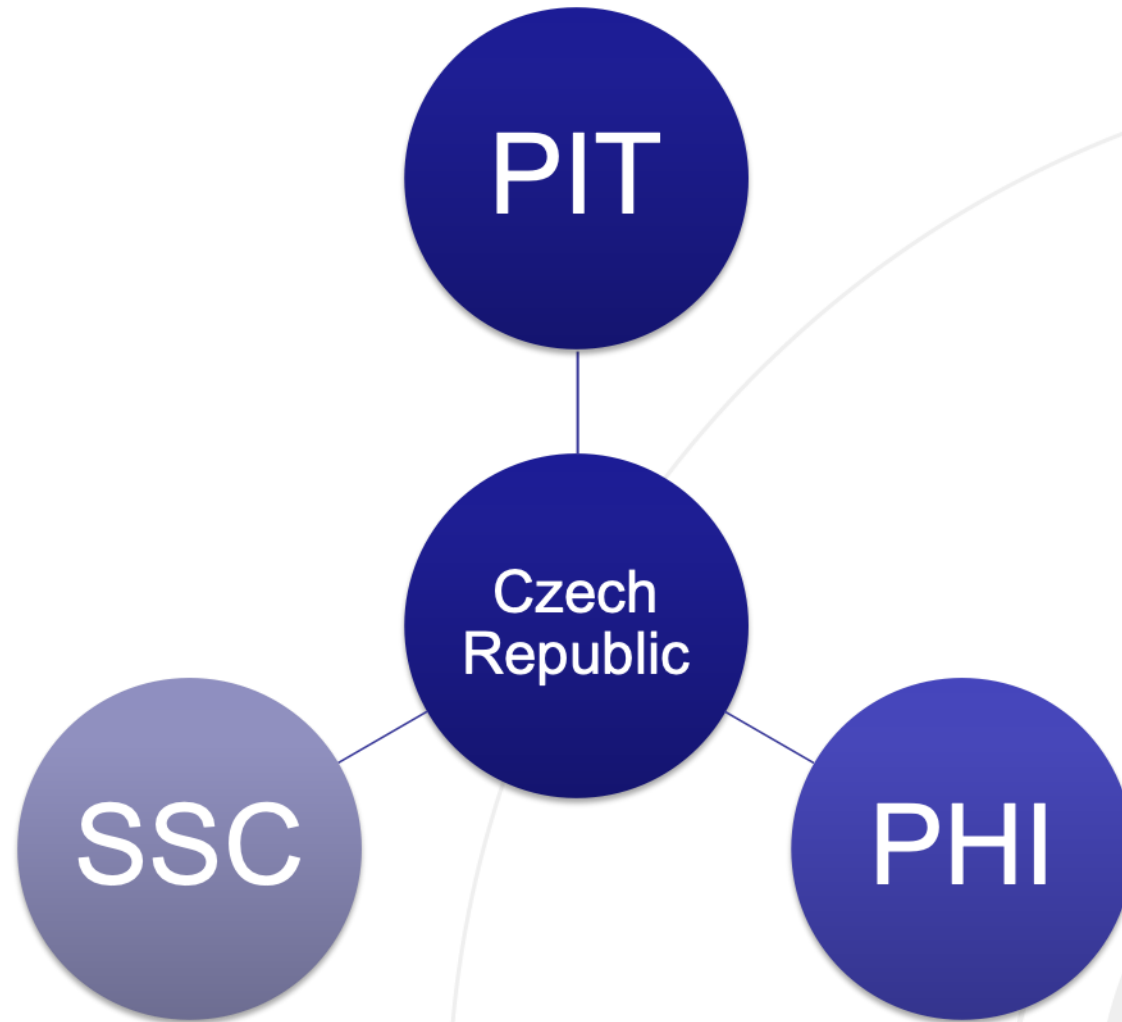
# Local Employment (2)

- Obligations of the Czech hosting company – personal income tax:
  - According to ITA (Income Tax Act) is the **Czech company considered as a payer of PIT in the Czech Republic** and must follow the Czech ITA rules.
  - Employee may sign an Employee Taxpayer Declaration with his employer and may claim Czech tax credits.
- Social insurance (EU + EEA + Switzerland):
  - EU + EEA + Switzerland = Application of basic rule → **employees must participate in the social security system of the country in which they physically perform their earning activity** from the first day of working in the country.
  - Their participation in the **foreign system** must be **terminated**.
  - **BASIC RULE = in countries covered by EU coordination regulations all areas of social security will be governed by the laws of JUST ONE COUNTRY.**

# Local Employment (3)

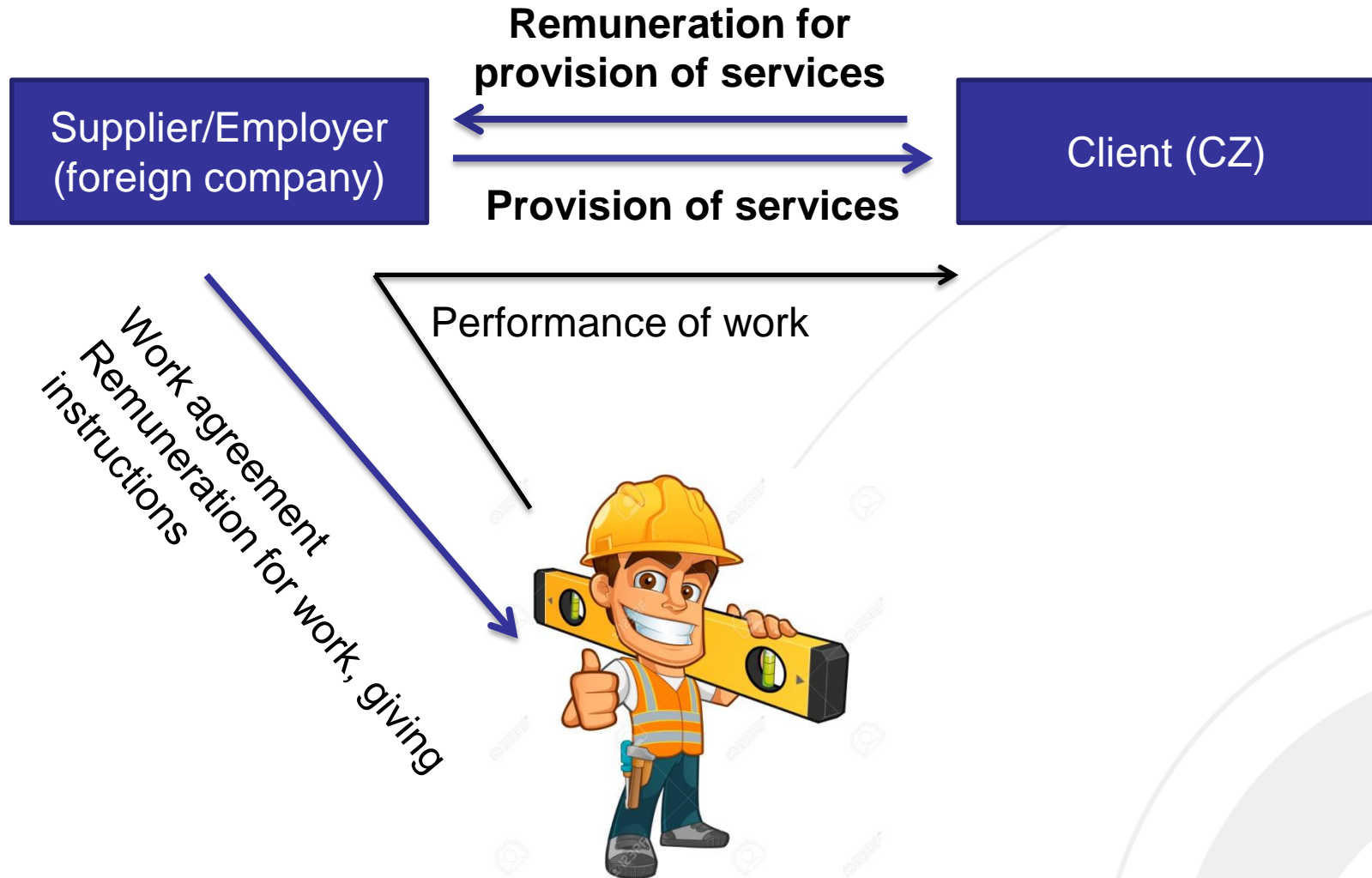
- Social security (other contractual countries):
  - Czech Republic has signed a bilateral social security treaty with the other foreign country.
  - We must follow the bilateral social security treaty rules.
- Social insurance (non-contractual countries):
  - The status of employees of Czech companies who come from so-called non-contractual countries is governed solely by Czech legislation.

# Local Employment – Basic Rules EU + EEA + Switzerland





# Posting



**Economic x legal employer**

source: <https://www.mkb servicedesk.nl/9782/ondernemers-bouw-werken-vaak-niet-veilig.htm>

# Posting to the CZ (1)

- Income tax:
  - All currently valid DTT to which the CZ is a party enable the taxation of employment income in the country of work.
  - The income that is subject to taxation in the CZ is all income for tax residents and all income from sources in the CZ for tax non-residents.
- Obligations of the posted employee:
  - Employees working for a service permanent establishment have to fill the PIT return in the Czech Republic.
  - In other cases = employer will submit the annual tax reconciliation for employee.

# Posting to the CZ (2)

- Social security (EU + EEA + Switzerland):
  - According to the basic rule, posted employees must participate in the social security system of the country in which they physically perform their earning activities.
  - Up to 24 months (period of posting) the employee can continue to be insured in his home country! (Regulation No. 883/2004).
- Health insurance:
  - Up to 6 months = may participate in home country (CZ)
  - Host country = employee will participate and pay health contributions by his employer

# Posting to the CZ (3)

- Social security + health insurance (other contractual countries):
  - Basic rule can be applied.
  - According to bilateral treaties the worker is allowed to continue to participate in the insurance system of his home country if he is posted for:
    - CANADA – posting does not exceed 60 months,
    - UKRAINE – 24 months,
    - USA – posting does not exceed 5 years,
    - Etc.
- Social security (non-contractual countries):
  - The national legislation of the two countries must be applied.

# Posting to the CZ - Basic Rules EU + EEA + Switzerland

PIT

- CZ

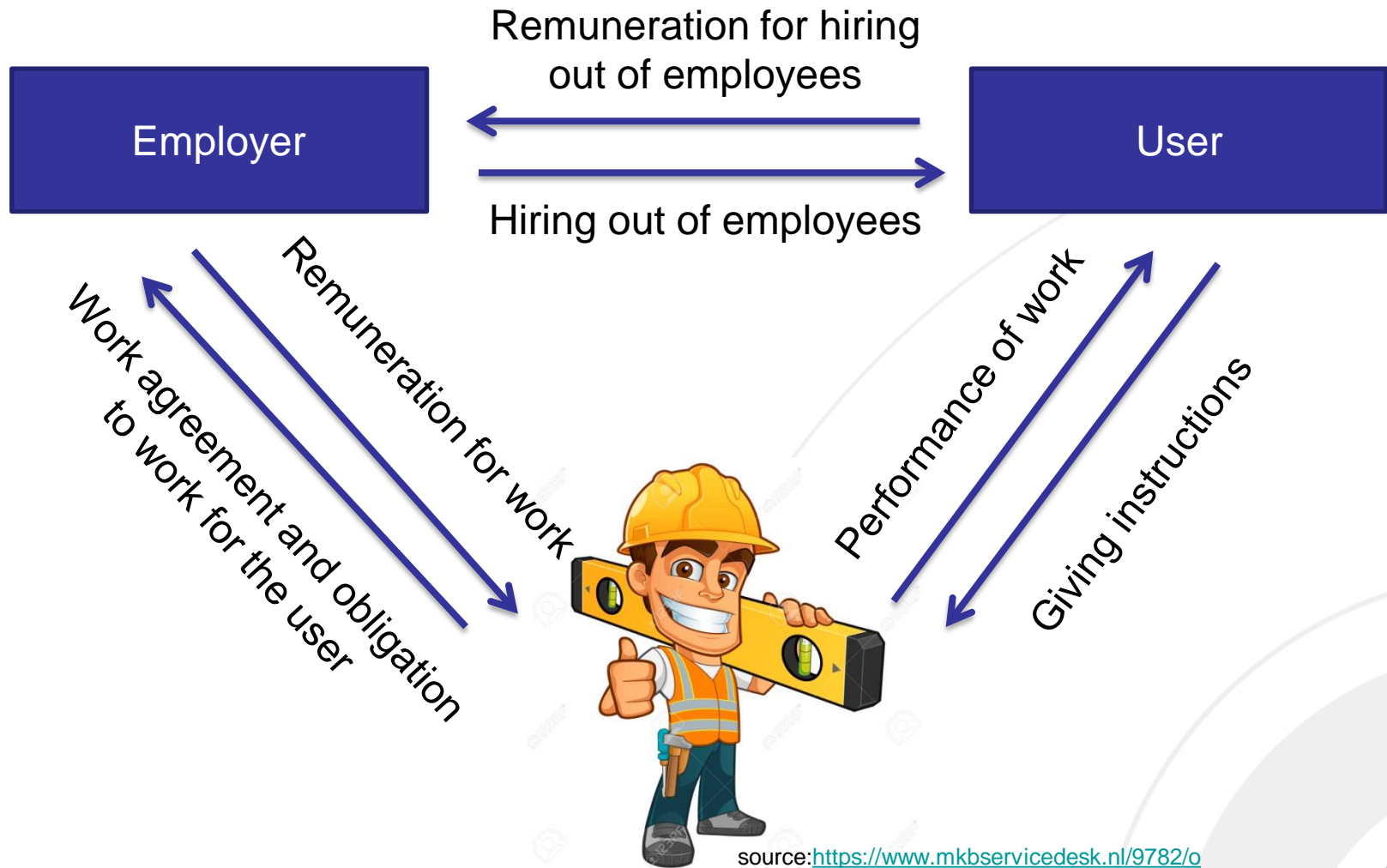
SSC

- Home country (24 months)
- Host country (over 24 months)

PHI

- Home country/Host country

# Hiring Out of Employees



source: <https://www.mkb servicedesk.nl/9782/ondernemers-bouw-werken-vaak-niet-veilig.htm>

**Economic (user) x legal employer (employer)**

# Hiring Out of Employees from Other Countries to the CZ (1)

- Income tax:
  - All currently valid DTT to which the CZ is a party allow taxation of hired-out employees' income from working in the CZ, without any time limit.
  - If the CZ has not signed a DTT with the worker's home country, then the local worker's income that is subject to taxation in the CZ is determined exclusively on the basis of Czech legislation.

# Hiring Out of Employees from Other Countries to the CZ (2)

- Social security + health insurance (EU + EEA + Switzerland):
  - According to the basic rule = must participate in the CZ.
  - Exemption: up to some time limit the employee will keep participate in home country.
  - The Czech company registers the hired-out employee with a health insurance company of his choice, and subsequently calculates and pays health insurance contributions.



# Hiring Out of Employees from Other Countries to the CZ (3)

- Social security (other contractual countries):
  - The social security treaties also allow the employee to continue to participate in his home country's insurance system (generally for a predefined period of time):
    - CANADA – 60 months,
    - USA – 5 years,
    - Chile – 2 years,
    - Etc.
- Health insurance:
  - Host country = paid by the host company
  - Home country = may continue paying the health insurance

# Hiring Out of Employees from Other Countries to the CZ (4)

- Social security + health insurance (non-contractual countries):
  - Employee is required to participate in sickness and pension insurance in the CZ.
  - Czech hosting company is considered to be the hired-out employee's employer and must register employee for health insurance.

# Hiring Out of Employees from EU + EEA + Switzerland to the CZ (basic rules)

PIT

- CZ

SSC

- Home country/Host country (basic rule)

PHI

- Host country/Home country

# Optional Videos

- <https://www.youtube.com/watch?v=RjZijmhHBxM>
- <https://www.youtube.com/watch?v=rKCPCGDGcRME>
- <https://www.youtube.com/watch?v=jd2NusNQ4nM>
- <https://www.youtube.com/watch?v=r7ntV0P1A98>
- <https://www.youtube.com/watch?v=N6ZymftKduM>

# CASE STUDIES



# Posting an Employee from the CR to Brazil (example 1)

- A Czech company operating in the aircraft industry was asked by a Brazilian company for assistance in launching the manufacture of a new product. The Czech company will send its best production engineer, Mr. Dvorak, to Brazil on 1st October 2012. Mr. Dvorak will stay in Brazil for 6 to 10 months. He will go by himself – his family will stay in the CR.
- Tasks: Where is going to be paid the PIT and social security insurance including health insurance?

# Example 1 (solution I)

- Personal income tax:
  - Under the double tax treaty, Mr. Dvorak's income (Mr. Dvorak being a Brazil tax non-resident) is taxed in Brazil if he stays in Brazil for a period longer than 183 days within one tax (calendar) year.

# Example 1 (solution II)

- Social security:
  - Under Czech legislation, Mr. Dvorak continues to participate in the Czech pension and sickness insurance as he is an employee of the Czech company.
  - The Czech company must pay social security contributions while Mr. Dvorak is in Brazil.
  - Mr. Dvorak also participates in Czech health insurance, as the relevant Czech legislation considers him to be a Czech employee and he has a permanent flat in the CR.



# Hiring Out an Employee from Canada to the Czech Republic (example 2)

- A Canadian manufacturer of car parts has established a subsidiary in the CR. This subsidiary includes a development centre, which has several Czech employees. A Canadian employee, Mr. Crosby, arrived at the Czech company on 1st July 2012 to support the development centre and pass on his experience. He plans to stay for 3 years, and his family have moved with him to the CR. They sold their house in Canada in 2012.
- Mr. Crosby is an employee of the Canadian company, which also pays out his salary. The Czech company pays the rent for his Czech apartment and provides him with a company car, which he may also use for private purposes.
- Tasks: Solve tax duties of Canadian company and Mr. Crosby's tax duties.

# Obligations of the legal employer (Canadian company) – solution I

- Income tax:
  - Mr. Crosby's legal employer, the Canadian company, has no income tax obligations in the CR.
- Social security:
  - Mr. Crosby will remain under the Canadian pension system. Contributions to the system should be paid by his legal employer, the Canadian company. The Canadian company has no pension insurance obligations in the CR.
  - Mr. Crosby will not participate in Czech sickness insurance – the Canadian company has no associated obligations in this area.
  - The Canadian company has no obligations as regards Czech health insurance.

# Obligations of the employee (Mr. Crosby) – solution II

- Income tax:
  - The Czech company will fill an annual tax reconciliation for Mr. Crosby (reconciliation = special tax declaration for incomes from employment)
  - If Mr. Crosby has another income exceeding the Czech limit a year, he will have to submit a Czech tax return.
- Social security:
  - Mr. Crosby has no obligations arising from Czech pension or sickness insurance – he is not entitled to any of the system's benefits in the CR.
  - All obligations related to Mr. Crosby's participation in the Czech health insurance system lie fully with the Czech company. Mr. Crosby is entitled to full healthcare in the CR covered by his health insurance. If he continues to participate in the Canadian system, he will probably be able to claim some of its benefits as well.

# Employment in Multiple EU Countries (example 3)

- A Czech company producing ceramic sanitary fixtures has decided to expand its sales activities to Slovakia using its own resources. For these purposes, it has established a subsidiary limited liability company in Slovakia, which will be in charge of sales and promotion of the Czech company's products. In order to facilitate its market entry, the company has hired three Slovak salespersons (Slovak citizens living in Slovakia), with whom it has signed an employment contract under Slovak legislation.

# Employment in Multiple EU Countries (example 3)

- In order to have an overview of and coordinate their activities, the Czech company's sales director, Mr. Kovar, was appointed to be the Slovak company's executive officer. He works primarily in the CR, where he lives in a family house together with his family. He travels to Slovakia three days each week. Once the Slovak employees are trained, his trips to Slovakia will be limited to no more than four days a month. The Czech company pays Mr. Kovar a salary of CZK 80 000 CZK per month. Based on a recommendation from the company's Slovak lawyers, he also receives a remuneration of EUR 300 per month from the Slovak company. In the future, he may also be entitled to a performance bonus.

# Evaluation of Obligations Associated with the Activities of Mr. Kovar (solution I)

- Czech tax legislation considers Mr. Kovar to be a Czech tax resident. Mr. Kovar does not meet the conditions for tax residence in Slovakia under legislation there.
- Mr. Kovar's status in terms of social security is determined by EU regulations on social security coordination. Under these regulations, he should participate in the social security system of the country in which he performs his gainful activities. Since Mr. Kovar performs his gainful activities in two countries, we will use another provision of the EU regulations on social security coordination, which stipulates that he should participate in the country of his residence if he performs a substantial share of his activities there. Under these criteria, Mr. Kovar's residence is in the CR.

# Obligations of the employer (solution II)

- Income tax:
  - The Czech company will withhold personal income tax prepayments from Mr. Kovar's salary and from any other remuneration subject to income tax.
  - The Slovak company pays income tax from Mr. Kovar's salary and any other remuneration subject to taxation – the tax is paid to the Slovak financial authority through the company's payroll.
- Social security:
  - All of Mr. Kovar's employers must register themselves as well as Mr. Kovar with the Czech social security system and must pay in to the system. Both the Czech and the Slovak company must register with the competent social security administrator, with the health insurance company selected by Mr. Kovar.

## Obligations of the Employee (Mr. Kovar) – solution III

- Income tax:
  - Mr. Kovar is a Czech tax resident.
- Social security:
  - Mr. Kovar has no obligations in the area of social security.



# Evaluation of Obligations Related to the Activities of the Salespersons (solution IV)

- The salespersons spend most of the year in Slovakia, and travel abroad only on short business trips. They thus do not meet Czech tax residency requirements as defined by Czech legislation.
- Instead, they are considered tax residents of Slovakia under Slovak legislation.
- According to EU regulations on social security coordination, their short-term business trips to the CR may be considered to be a form of employee posting, during which the employees participate in their home (Slovak) social security system.

# Posting an Employee from Spain to the Czech Republic (example 4)

- On 1st January 2012, a Spanish textile company engaged in a production of original luxury fabrics for wide-scale use posted Mrs. Rodriguez to a Czech textile company in the CR. Mrs. Rodriguez plans to spend two years in the CR working as a specialist and designer. During this time, she will remain an employee of the Spanish company, which will invoice the Czech company for her consultancy services in the area of textile development and production. The Spanish company has arranged accommodation for Mrs. Rodriguez in the CR. Mrs. Rodriguez lives on her own.
- Later (after two years), the companies agree that the consultancy services will be provided for an additional year. Mrs. Rodriguez agrees with this extension of her time in the CR.

# Obligations of a Spanish Company (solution I)

- Personal income tax:
  - Spanish company have any duties related PIT from employment. Mrs. Rodriguez will thus have to pay her own PIT and submit a tax return.
- Social security:
  - Mrs. Rodriguez will continue to participate in the Spanish social security system for a period of two years.
  - For these first two years, the Spanish company has no social security obligations in the CR.
  - After two years, Mrs. Rodriguez may no longer participate in the Spanish social security system. For her final year in the CR, she will thus have to participate in the Czech social security system.

# Obligations of Mrs. Rodriguez (solution II)

- Income tax:
  - Mrs. Rodriguez is obliged to submit an income tax return in the CR regardless of whether her only income is from the Spanish company or not.
- Social security:
  - For the first two years, Mrs. Rodriguez, is participating in the Spanish social security system.
  - For the final third year she will be participating in the Czech system.

# Sources & Internet websites

- **Presentation is based on publication:** Rytířová, Tepperová: International Employment, Posting and Hiring Out of Employees, ANAG publisher, 2012.
- <http://www.mpsv.cz/en/1921>
- <http://www.mpsv.cz/en/1877>
- <http://www.mpsv.cz/en/3111>
- <https://www.pwc.com/cz/en/studie-analyzy/foreign-nations-working-in-cr.pdf>
- <http://ec.europa.eu/social/main.jsp?catId=26&langId=en>