

Payroll taxes & social security on cross-border employment

CROSS-BORDER EMPLOYMENT WITH A HUNGARIAN-
POLISH PERSPECTIVE AND CASE STUDIES



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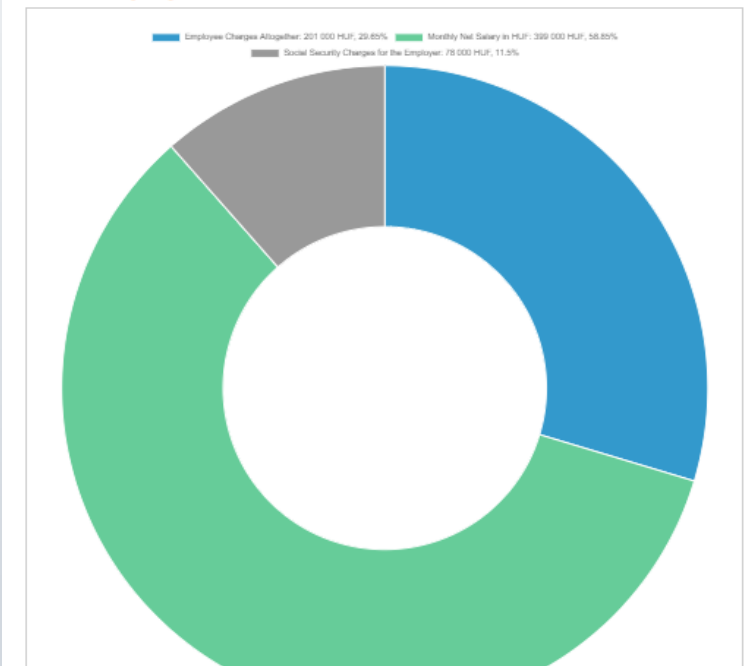
Payroll tool in English

Calculation example

Gross Monthly Salary and Deductions

Category	Amount in HUF
Monthly Gross Salary in HUF	600 000 HUF
Calculated Income Tax	90 000 HUF
Calculated Social Security Tax	111 000 HUF
Tax Allowance for Families	0 HUF
Tax Allowance for Just-Married	0 HUF
Income Tax Charge	90 000 HUF
Tax Allowance for Families Still Available	0 HUF
Social Security Tax Charge	111 000 HUF
Employee Charges Altogether	201 000 HUF
Monthly Net Salary in HUF	399 000 HUF
Social Security Charges for the Employer	78 000 HUF
Total Employer Cost	678 000 HUF

Total Employer Cost



<https://www.gyarmathy.hu/news-and-insights/salary-calculator-gross-net>



Overview

Typical cross border cases



Jan P.
Engineer from Warsaw

Direct employment

Example:
Polish engineer is employed by Hungarian company

Secondment

Example:
Polish company sends Polish engineer to work in Hungary

Home office

Example:
Polish engineer works for Polish company from Hungary

Main issues



Jan P.
Engineer from Warsaw

IMPORTANT: Every case must be examined individually.

1. Where will **personal income tax** be paid?

Only in one country or in both? Double Tax Treaty and tax laws usually eliminate double taxation.

2. Which **social security** rules will apply?

Social security payments basically only in one country in EU.

3. Does the cross-border employment create an unforeseen „permanent establishment” i.e. **corporate income tax liability** for the employer in the foreign country? If yes, think twice.



Direct employment

Direct employment



Example:
Polish engineer is
employed by
Hungarian company,
he works in Hungary

Most common constellation

- **Allover taxability of the engineer is in Poland if the engineer remains a Polish tax resident. Personal income tax for work income will be taxed in Hungary.**
- **Social security in Hungary**

Personal income tax

Personal income tax obligation is regulated by the Double Tax Treaty between Hungary and Poland.

World-wide income

- Where is the main place of living and center of interests of the Polish engineer? Most typically this will be in Poland. The engineer will remain a Polish tax resident and be taxed in Poland on world-wide income. Only his salary will be taxed in Hungary.
- If the engineer becomes a Hungarian tax resident, then his world-wide income will be taxed in Hungary, including his salary. Permanent place of abode and center of life interest does not depend on address registration by authorities.

Income from employment

- Income from employment in Hungary will be taxed in Hungary.
- The Hungarian company must be not just the legal but also the “economic” employer.

Social security

- Social security will be paid in Hungary because it is the place of work.
- Coordination within the European Union, double social security is forbidden.
- Engineer will have the right to full social security services in Hungary.
- If he lives in Poland, he will receive a Hungarian A1 certificate. S1 certificate entitles him to full in-kind health care in Poland as well (i.e. not only emergency care as an EU citizen). The S1 certificate is issued by the Hungarian insurance to the Polish social security authority.
- Pension entitlement based on Hungarian insurance according to EU regulations.
- Pension amount is calculated proportionally, considering length of service and average earnings in a given member state proportional to entire service.

Two or more employers?

If the engineer normally works as an employee in two or more Member States, he is subject to social security in the Member State of residence (Poland):

- if a significant part of his activity (his working time or salary reaches 25 percent of the total working time or salary) in the Member State of residence, Poland, or
- if the person is employed by different employers whose registered offices are located in other Member States than the Member State of residence, Poland.

The Hungarian employer should ask the engineer for a **written declaration** on the above. Otherwise, the Hungarian employer may miss his duty to pay social security in Poland. It will then be incorrect to pay social security in Hungary.



Secondment

Secondment



Example:
Polish company
sends Polish
engineer to work at a
company in Hungary

Most common constellation

- **Personal income tax for work income**
 - **in Poland** if the engineer spends **183 days or less** in Hungary
 - **in Hungary** if more than **183 days** in Hungary,
 - **allover taxability of the engineer is in Poland** if the engineer is a **Polish tax resident**.
- **Social security in Poland**

Personal income tax

World-wide income

- Where is the main place of living and center of interests of the Polish engineer? Most typically this will be in Poland. The engineer will remain a Polish tax resident and be taxed in Poland on world-wide income.
- If the engineer becomes a Hungarian tax resident, then his world-wide income will be taxed in Hungary, including his salary.

Personal income tax

Income from employment

If the engineer is a Polish tax resident, **income from employment** in Hungary will be taxed

- in Poland, if the engineer spends 183 days or less in Hungary,
- in Hungary, if the engineer spends more than 183 days in Hungary. The engineer will be generally liable to all other taxes in Poland, e.g. for income from work or capital interest in Poland.

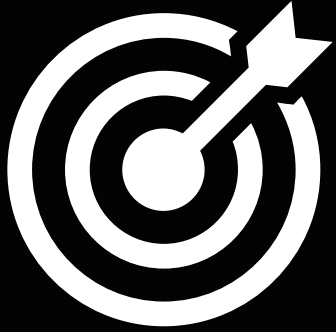
The Polish company must be not just the legal but also the “economic” employer. (If the „economic employer” is a Hungarian company: see chapter on direct employment above.)

Certificate of fiscal residence

If the **income from employment** in Hungary from the Polish employer will be taxed in Poland then the engineer will have to provide a certificate of Polish fiscal residence in Hungary for every year.

Social security

- Social security will be paid in Poland provided that
 - The employee continues to work on behalf of and for the benefit of the Polish posting company.
 - The expected duration of work does not exceed 24 months.
 - The employee has at least 30 days of insurance.
 - The employee will not be sent to another Member State.
 - The employee does not replace an employee whose posting period has expired.



Home office

Home office



Jan P. and Piroska H.
marry and live in Hungary

Example:
Polish engineer
moves to Hungary
and does distance
work for a Polish
company from his
home in Hungary

Most common constellation

- **Allover taxability of the engineer is in Hungary including personal income tax for work income.**
- **Social security in Hungary**

Personal income tax and social security

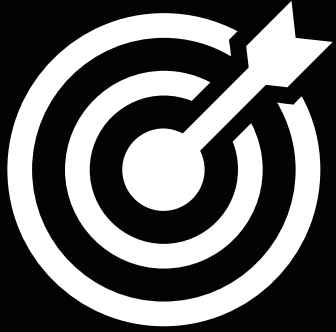
World-wide income

- The engineer becomes a Hungarian tax resident and his world-wide income will be taxed in Hungary, including his salary. Social security will also be due in Hungary
- The Polish company will have to register in Hungary for tax and social security purposes as an employer. Declaration and payment of tax and social security: monthly.
- Option: the engineer registers himself instead of the employer and pays taxes and social security on behalf of the employer. Declaration and payment of tax and social security: quarterly.
- Further option: The Polish company employs the engineer over a staffing agency in Hungary.

Corporate income tax?

The Polish company will be deemed to have a “permanent establishment” for corporate income tax purposes in Hungary if

- the engineer’s apartment is available to the Polish company for the purpose of working, e.g. computer, telephone, internet access, and he uses the apartment even partially for work and the benefit of the Polish company or
- if the engineer regularly, i.e. not on a case-by-case basis, concludes contracts in Hungary on behalf of the Polish company. This should be interpreted broadly, so even visiting and negotiating with customers may be relevant.



Thank you for your attention!

Any Questions?

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