

Podcast title: Adventures in Entrepreneurship Law

Episode: What does it cost to hire people? Taxes and employment

Podcast guest: Marika Kaitamaa, Senior Tax Manager, KPMG.

Length of recording: 26 minutes and 7 seconds

Transcription notes:

N1: Narrator 1

N2: Narrator 2

N3: Narrator 3

Host 1: Moritz Scherleitner

Host 2: Kalle Airo

Episode guest: Marika Kaitamaa

Other information about the text:

[text] = a sounds or not transcribed parts are written with square brackets e.g. [laughs] or [interview paused due to a phone call]

[recording starts]

N1: Aalto University podcast.

[Intro music]

N2: In the Adventures in Entrepreneurship Law podcast series, Petra Hietanen-Kunwald and Kalle Airo from Aalto University explore business law from an entrepreneurial point of view with expert guests. In some episodes, their co-host is Moritz Scherleitner. The podcast content is meant for education and is not intended to constitute legal advice.

What does it cost to hire people, taxes and employment? Our guest is Marika Kaitamaa senior tax manager KPMG. Entrepreneurship Law with Petra and Kalle.

You need some helping hands for your business and decide to employ someone, what kind of Tax and Social Security obligations are connected to such an action. In this episode, Kalle and Moritz talk with Marika Kaitamaa about the key duties that must be fulfilled by the entrepreneur acting as an employer. Furthermore, they discuss alternative forms of acquiring labor.

Moritz Scherleitner: As start up grows and is considering to pay people to work for it. Today we speak about the tax and social security obligations for the employer that are connected to acquiring labor. Our guest today is Marika Kaitamaa from KPMG. Marika, thank you for coming and welcome to our course. Can you please introduce yourself?

Marika Kaitamaa: Yes. Hello, and thank you for having me here. My name is Marika Kaitamaa. I am a lawyer and a tax enthusiast and I work as senior manager at KPMG. I work with a wide range of international and domestic tax matters arising from employers sending their employees to work abroad or bringing employees to Finland.

I also specialise in employment tax matters, employers obligations and compensation and benefits taxation.

Moritz: Why is this topic important for you?

Marika: I am strongly of the opinion that when starting a business, tax related matters should be attended to properly right from the start. There are several reasons for this, but most importantly, doing things right from the get-go helps to mitigate unnecessary financial and reputational risks.

Kalle Airo: This is also important point for any investment that you want to receive because they will do due diligence and they want to know that you actually know what you are doing and everything is done in a proper way. And also as important if you want to sell your company, make the exit and actually harvest the value and make money for yourself.

Marika: I definitely agree on it.

Kalle: When I as an entrepreneur am considering hiring somebody, what are the first questions that I should be thinking about or asking?

Marika: Good question. Well, as a start, you should think about why do you need to hire someone? What kind of position is available? What is the need to hire the employee? For example, do you have a temporary project to which you need spare hands or if you have more continuous need for manpower?

Also, it is important to determine what kind of employee you are looking for. Is it someone with little or no experience at all, or perhaps someone more senior level employee. This has an impact on for instance, compensation package you need to offer for the employee.

Kalle: How should you actually decide what kind of compensation package you are offering? What should you consider?

Marika: Well, as a first step, I would familiarize myself with the applicable collective agreements, if there is any, and maybe look into some average way trenches or market side surveys for the position to which you are hiring an employee to determine the competitive salary level for this position.

As a next step, you need to determine how much the company is willing to pay for the employee. If you only pay cash based compensation, or perhaps offer some benefits, the more senior level employee is you are looking for, you perhaps need to think about performance based or equity based compensation as well.

Kalle: What are the advantages of offering other compensation than just cash?

Marika: Well, fringe benefits comes with more beneficial tax treatment and by beneficial I mean that the taxable value is lower than the fair market value. There is also various tax exempt benefits that must not be forgotten, such as benefits related to well-being of personnel or recreational benefits such as sports activities and cultural events. Although these may seem beneficial only for the employee, they are actually beneficial for the employer as well. Due to lower base for social security contributions, or not having to pay them at all.

Moritz: So they are exempted from social security contributions?

Marika: Yes, to certain extent, or because of the lower taxable value the base for social security contributions also lower.

Moritz: How can employees be encouraged to commit to a business?

Marika: Well in my experience, equity awards are commonly used to design compensation packages in the startup world. A well designed incentive scheme helps to attract the best talent in the industry and keep them invested in the business for a longer time. All types of equity awards in some form or the other grants the employee an option to buy or receive stock, not directly but after vesting period. That is a great way to ensure that personnel stays committed to the business.

Moritz: How long are these vesting periods usually?

Marika: Well, usually at least a year, but they can be longer as well like three years or maybe even five years.

Moritz: So you have decided to recruit an employee what are the first practical steps which you have to do?

Marika: As a first step you need to check what are the obligations that you need to, as an employer, to take care of. Companies acting as regular employers need to register into the employer's register. Company is considered to be a regular employer if they employ two or more employees on regular basis.

Moritz: What means employing on a regular basis?

Marika: You pay salaries like, let's say monthly to the employees so you have two or more employees whom you pay salaries regularly. Companies who only employ one employee do not need to register the employers register, they are considered as occasional employers.

Moritz: What does registration the employers register mean in practice?

Marika: Registration in the employer's register indicates to the tax administration that the employer is a regular employer as opposed to occasional employer. This affects for example, payroll reporting, regular employers must file payroll reports for each month regardless of whether they have actually paid any salaries for that month.

Moritz: Okay, so once the registration has been done, what are the next steps then?

Marika: The next step is to take out mandatory social insurances from relevant insurance companies. Mandatory social insurances include pension insurance, work accident insurance and group life insurance if applicable. These are the ones that you actually have to take out as insurances. Then unemployment insurance is invoiced based on the employer payroll reporting, and it is invoiced by the employment fund.

Moritz: So you can choose yourself which insurance company you take and what are the factors you consider in this respect?

Marika: Yes, you can choose. Different pension insurance companies can have different kinds of client bonuses, which can lower the rate for pension insurance contribution to be paid.

Kalle: So what obligations do you actually have when you are paying salaries?

Marika: Well, employers are required to withhold tax on the salaries paid to employees. For this purpose, employer needs to request tax withholding card from the employee. If the employee receives benefits, employer is responsible for making sure that correct taxable values are used. Employers are also required to deduct employees pension and unemployment insurance contributions from the gross pay.

Kalle: What about after the salaries have been paid?

Marika: Well now the tax withholding is made from the employees pay, employer needs to remit the tax withholdings to the tax administration. The tax withholdings are remitted together with employer's sickness insurance contributions. Remittance of tax withholdings and employer sickness insurance contribution is based on employer's payroll reporting. When it comes to social security contributions, apart from employer's sickness insurance contribution, other social security contributions are paid against the invoices issued by the employment fund and insurance companies.

Kalle: What is remittance in layman's terms?

Marika: Like paying the tax to the tax administration.

Kalle: What kind of income report should be filed?

Marika: Employers are required to report salaries paid to the employees on an earning's payment report. This is a report that needs to be filed for each kind of transaction, for each time employer is making a payment. And this is filed for each employee separately. In addition to the earnings payment report employers are required to submit employer's separate report on monthly basis. On employer's separate report, employer declares the amount of employees sickness contribution to be paid.

Kalle: So how much time do you have to actually file this information?

Marika: Earnings payment reports are to be filed within five days of payment however no later than by the eighth of following month to avoid any penalties. Employer separate reports are filed on monthly basis.

Kalle: Who takes care of the payroll processing? Is it the company or the founders of the company? Or can you somehow have a help from outside?

Marika: I would say that the founders of the company are not the correct ones to take care of the payroll reporting. I think they need to focus on their core business. Company can outsource payroll services and I would recommend maybe for new businesses to engage accounting firm to take care of the payroll and payroll reporting.

Kalle: So what are the benefits of having an accounting firm or somebody else doing this on your behalf?

Marika: In some cases, it could be more cost efficient but naturally, they are professionals in what they do so the founders can focus on their core business rather than running payroll.

Moritz: And you probably also avoid the penalties you get if you do not do it correctly. It is probably a good investment. What if the employees recruited from abroad to work in Finland? Are their obligations different?

Marika: Well, in principle no. There are same employer obligations, whether or not the employee is recruited from abroad to work in Finland or recruited in Finland or from Finland. However, when recruiting from abroad and especially outside the EU or EEA area, it is good to know that the employee requires residency permit in order to work in Finland and it is the obligation of an employer to make sure that the employee has the residency permit and the right to work here.

Moritz: How can the employer assist employees moving to Finland?

Marika: When recruiting foreign talent in Finland, it is common for the employers to provide support for the employees related to the requirements when entering into Finland, such as support in applying for residency permit or EU registration. Assistance in house search and other practical matters is also widely offered as well as support with social security applications and tax matters.

Moritz: Are there any risks to consider with regard to international remote work?

Marika: Yes, international remote work is anything but risk free. There are several things to consider. There could be corporate tax implications, and then of course, tax implications for the employee, employer obligations, social security implications just to name a few. Depending on the role of employee and the length of working period. There the employee could create permanent establishment for the employer in the country where the remote work is performed.

Moritz: Which means that the employer has then to file their tax returns with this other country. The profits attributable to the permanent establishment are then taxable in another country?

Marika: Yes. And then even without having establishment, remote work could trigger the obligation to pay mandatory social security contributions to that country. Maybe make tax withholdings, meaning withhold the taxes of the country where the work is performed, or file some employer payroll reports.

There are also other factors to consider like data privacy, how can employer ensure that information that is confidential will be kept confidential throughout the remote work period.

Other factors to consider - what if the employee falls ill or has an accident in that country. What happens then? Or what if something surprising happens in the country where the

work is performed. Finally, if you are working outside EU area, there could be immigration implications as well which could have impact on the employer as well if not taken care of. Usually you are not allowed to work in the country, with business visa, let alone if you only have a tourist visa.

Moritz: So that means that when you send an employee abroad, then this employee abroad creates a presence which potentially goes in hand with tax consequences for the startup. So when you send someone abroad, then you have to consider a lot of tax implications.

Marika: Potentially yes. Although in case of cross border remote work, employees are not usually posted to work to that country, they are working remotely which needs to be... they are of different concepts. But yes, there could be potential implications, but usually, as a rule of thumb, the shorter period of work in another country the lesser the risks involved maybe.

Moritz: When I was studying, I had a friend who went abroad for doing an exchange semester and her boyfriend came with her and the boyfriend had his own company, which he was kind of managing himself, it was kind of his one-man company. And he was then doing the whole work for the company abroad. Is this also risky. He is not an employee but he still works for the company

Marika: I would say that is definitely a risk.

Moritz: What kind of risks are related to that?

Marika: Well, first of all, he probably creates permanent establishment for the company to that country. And then we have all the other obligations related to having permanent establishment in another country like corporate. You need to file corporate tax return, there are probably other filing requirements as well.

Kalle: Probably the person also triggers then residency for the company, based on the company being managed there. Finland has now new law so if you found the company in Estonia, but you manage it from Finland, then the company is the tax resident in Estonia and it is also a tax resident in Finland.

Marika: Yes.

Moritz: So that was a lot of information. What are your key takeaways on international remote work?

Marika: I would say it is important to clarify the potential implications that may arise from allowing employee working remotely in another country and agree on the acceptable terms for giving green light for their remote work, to avoid any unwanted and costly surprises later on.

Moritz: So what obligations should you take into consideration when you are sending people for an assignment position abroad?

Marika: Well, basically there are similar things to consider as with the remote work. However, if there is a host entity, where you are posting the employee to work, usually the host entity takes care of the local employer obligations. If there is no host entity, the assignment abroad usually triggers the same implications as with remote work. There is likely tax withholding obligation, reporting obligation, and so forth.

Similar to remote work, it is important to assess these obligations beforehand. Also, if there is no host entity, the assignment could create corporate tax implications as well. So, the implications are pretty much the same as with the remote work.

Kalle: What if hiring an employee is not possible or is not practical? What are the other alternatives that you can consider?

Marika: Well, in some some cases, it might make more sense to buy the work as a service rather than hiring an employee. In that case, the payment is considered non-wage compensation for work and not salary.

Moritz: Are the payers obligation different when being a subcontractor or freelancer than hiring an employee?

Marika: Yes, yes, they are different, at least a bit, depending on whether the recipient of the payment is registered into the prepayment register. If the recipient is registered in the prepayment register, you can just pay for the work against the invoice issued. If the recipient is not registered in the prepayment register, you need to withhold tax on the payment made to the recipient. In case of self-employed individuals, you will need a tax

card or you will need to request the tax card to make the tax withholding and in case of companies there is a fixed rate of 13%.

Moritz: This is like when you hire a babysitter, you have to kind of withhold yourself and other stuff, because they are not in the register?

Marika: Yes. If the recipient is not registered in the prepayment register, the payer must also report the non-wage compensations to the income register. So you need to also file the earnings payment report similar to employees.

Moritz: When is it better to pay for a freelancer or subcontractor than hiring an employee?

Marika: In most cases it is not a matter of choice whether the company chooses to hire an employee or pay for the same work as a service conducted by, for example, self-employed individual or company. If the circumstances point towards employment relationship, the payment is considered to be salary regardless of the form of contract between the parties.

Moritz: So you cannot call it a service when it actually is an employment?

Marika: Correct. However, in some cases, it is a valid option of course, and available option to buy the needed work as a service.

Kalle: So there seem to be a lot of obligations to remember, when you are hiring somebody to your company. Is it even possible to do this properly as a startup company? Or how is it possible to do it properly?

Marika: Although there is lots to remember there is a lot of useful information and guidance to be found on the authorities web pages. You can also utilize the authorities customer service to receive practical help and support.

Kalle: Do you have any overarching advice on hiring people?

Marika: My recommendation is to always seek guidance if in doubt. As I said in the beginning, doing things right from the get-go is always less costly than reacting to problems as they emerge.

Kalle: I totally agree, because in entrepreneurship, you typically want to test quickly and fail quickly but legal and tax issues are not the topics to play around with.

Moritz: That was very informative. Thank you very much Marika for being here.

Marika: Thank you. It was a pleasure.

[Outro music]

[Recording ends]