Global Tax Update

AUSTRIA

Tax deductibility of foreign health insurance contributions

According to Austrian regulations, obligatory social security contributions are deductible from the tax base. This rule is generally also applicable for foreign obligatory social security contributions.

A recent decision by the Austrian Supreme Court for tax matters (Verwaltungsgerichtshof) outlined the deductibility of foreign health insurance contributions in Austria. In general, statutory contributions are deductible expenses when calculating the income tax due in Austria. As the legal obligation of being subject to health insurance might differ in each country, the deductibility of the foreign health insurance contributions can be limited. The Austrian authorities distinguish between statutory contributions to foreign health insurance systems and contributions to private health insurance due to a legal obligation.

Statutory Health Insurance Contributions

In many countries, employed and self-employed persons are subject to statutory health insurance in their home country. However, they might also be subject to taxation in Austria for their work performed in Austria. In the case that the foreign health insurance system is comparable to the Austrian system, the foreign health insurance contributions can be deducted irrespective of the assessment basis and the contribution rate. This indicates that there is no discrimination against persons who are subject to a foreign statutory health insurance system.

Private Health Insurance Contributions Due To Legal Obligations

There are also systems without a compulsory health insurance but with a legal obligation to be health insured. In these cases, the Austrian tax law limits the maximum deductible amount with the Austrian health insurance amount. The difference here is that the contributions are only tax-deductible up to the Austrian maximum threshold for health insurance contributions, which is 8% of the threshold of EUR 5,220.00 in 2019. The reason for this restriction is that the higher level of these contributions generally refer to higher insurance benefits.

CANADA

Social Security in Canada and Quebec

Like many countries, Canada has its own social security system; however, the Province of Quebec has its own unique social security system, which works differently from the rest of Canada. It is therefore necessary to understand how both social security systems work.

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Canadian Social Security System (Excluding Quebec)

Canada has two components of social security tax:

- **Canada Pension Plan**

  The Canada Pension Plan (CPP) provides contributors and their families with partial replacement of earnings in case of retirement, disability or death.

  As of 2019, CPP is being gradually enhanced, meaning increased CPP contributions which provides higher benefits to the contributors.

  The increase in contributions will be phased in gradually in 2 steps over a 7 year time period.

  Step 1: From 2019 to 2023, the contribution rate for employers/employees will gradually increase by 1%.

  Step 2: From 2024 to 2025, a higher limit will be introduced. This new limit, known as the second earnings ceiling will be in addition to the first earning ceiling. This new range of earnings will start at the first earnings ceiling and go to the second earnings ceiling which will be 14% higher by 2025. Like the first earnings ceiling, the second will increase each year to reflect wage growth.

  Up until 2019, the CPP retirement pension replaced one quarter of the contributor's average work earnings. With the enhancement, the CPP will begin to grow to replace one third of the contributor's average work earnings.

  Once fully in place, the enhancement will increase the maximum CPP retirement benefit by about 50%; it will also increase the CPP disability pension and CPP survivor's pension.

- **Employment Insurance**

  Employment Insurance (EI) provides temporary income support to workers when they are unemployed, or when they take time off due to specific life events, e.g. illness, pregnancy, caring for a new born or newly adopted child, a critically ill or injured person, or a family member who is seriously ill with a significant risk of death.

  In 2019, the EI premium rate has dropped to 1.62% from 1.66% (2018) for employees.

Quebec Social Security System

The Province of Quebec has three components of social security tax:

- **Quebec Pension Plan (QPP)**

  QPP provides Quebec workers with similar benefits to that which CPP provides in the rest of Canada.

  The enhancement of QPP also begins to take effect in 2019 and will be fully in place in 2065. The contribution rate has increased by 0.15% in 2019. The new plan will increase the income replacement rate from 25% to 33.33%.

- **Employment Insurance (EI)**

  EI for workers in Quebec is administered by the federal government and it does not cover maternity, parental and adoption benefits; as such, Quebec EI premium rates are slightly lower than the rest of Canada. In 2019, the Quebec EI premium rate dropped to 1.25% from 1.30% in 2018 for employees.

- **Quebec Parental Insurance Plan (QPIP)**

  In the province of Quebec, the maternity, parental and adoption benefits are administered by Revenue Quebec under the Quebec Parental Insurance Plan (QPIP). The government of Quebec has announced a decrease of the QPIP premium rate by 6% as of January 2020.

BDO Comment

Due to the continuous change in the Canadian social security system, the

employer should be aware of the additional cost of employees' assignments in Canada. Consideration should be given to:

- Consultations before the assignment with the employer and employee to help the client familiarise themselves with the Canadian social security system, international social security agreements and the additional tax burden for both the employer and employee
- Canadian payroll and shadow payroll calculations.

CHINA

Changes to the China and India double taxation agreement

Amendments to the double tax treaty between China and India came into effect in June 2019. The agreement applies to all taxation from the 1 January 2020 in China and 1 April 2020 in India.

Main changes:

- **Persons Covered**
  Further provisions on the taxation of income received via fiscally transparent entities
- **Resident tie-breaker provisions**
  Where you are a dual resident there are additional tie-breaker provisions to determine where you are ultimately regarded as resident for double tax treaty purposes
- **Permanent Establishment**
  Changes relating to the time periods reviewed regarding permanent establishments in construction engineering and services projects
- **Business Profits**
  Reviewing how business profits are attributed to permanent establishments and which country has the taxing rights on these
- **Interests**
  Clarification on the definition of 'Central Bank' in both countries being the People's Bank of China and the Reserve Bank of India.

BDO Comment

As we go forwards we anticipate China will sign up to more double taxation agreements and social security agreements.

Notice on individual income tax preferences for Guangdong - Hong Kong – Macua Greater Bay Area

To support the development of the Guangdong-Hong Kong-Macau Greater Bay Area, the Ministry of Finance and the State Taxation Administration released the Notice on Individual Income Tax preferences for Guangdon-Hong Kong-Macau Greater Bay Area (Cai Shui [2019] No. 31, hereinafter referred to as "Notice No.31").

Notice No. 31 stipulates that Guangdong Province and Shenzhen Municipality shall, in accordance with individual income tax differences between the Mainland and Hong Kong, grant subsidy for overseas (including Hong Kong, Macau and Taiwan) high-end talents and highly sought-after talents working in the Greater Bay Area. Such subsidy shall also be exempted from individual income tax.

The scope of application of this Notice shall include nine municipalities in the Greater Bay Area Pearl River Delta namely:

- Guangzhou Municipality
- Dongguan Municipality
- Zhongshan Municipality
- Jiangmen Municipality
- Huizhou Municipality
- Zhaoqing Municipality

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DENMARK

New double tax treaty between Denmark and France

A new double tax treaty, based on an agreement between the French and Danish authorities will come in to force after the previous one was terminated in 2008.

The agreement will benefit Danish companies and individuals in France, particularly Danish pensioners wanting to spend their retirement in France. The agreement states that Danish pension payments to pensioners residing in France will no longer be fully taxed in both countries.

According to the new agreement, in return for the right to tax Danish pension payments received by pensioners residing in France, it has been agreed that Denmark will reduce Danish taxes on pension payments with an amount corresponding to French taxes.

This is a change from the way double tax treaties are usually structured, where the country of residence reduces its taxes to avoid double taxation.

As Danish tax rates are generally higher than French tax rates, the Danish tax minister estimates that a substantial part of the tax revenue from Danish pension payments to pensioners resident in France will be attributed to Denmark.

Transitional rules will apply to pensioners, who had already relocated to France on 28 November 2007 and started receiving pension payments on 31 January 2008.

LUXEMBOURG

Social security treaty with China

The social security treaty signed between Luxembourg and China in 29 November 2017 entered into force on 1 May 2019.

This is the first social security treaty between the two countries and it applies only to pension coverage. It does not cover other risks such as sickness. The treaty also foresees specific provisions for seafarers and aircraft crews.

Under the treaty, an employee who is seconded from one country to the other remains covered by the pension insurance scheme of their country of origin if the duration of the secondment does not exceed 5 years. Beyond this initial period, the assignee may still be covered by the pension insurance of their home country if the authorities in both countries provide their agreement.

As from 1 May 2019, the employees of Chinese companies seconded to Luxembourg may therefore remain within the Chinese pension scheme.

BDO Comment

It is worth noting that for ongoing assignments, the 5-year secondment period is deemed to start on 1 May 2019, so that periods of assignments before that date are ignored.

UK

PAYE - NT (Nil Tax) Codes

NT Codes are generally issued to an employer's payroll team when an employee is sent on an assignment outside of the UK and they are no longer a UK tax resident. Applying an NT code means that the employer does not have to operate PAYE on employment income relating to non-UK work duties, however, this doesn't relate to National Insurance contributions and this will have to be reviewed separately.

NT codes should take effect from the departure date to prevent double taxation, so it is imperative that you complete the relevant forms and send them to HMRC prior to employee commencing their assignment.

HMRC has advised that a letter including the relevant information will suffice, however, in some cases HMRC are still requesting a departure form P85 is completed.

BDO Comment

Timely completion of the relevant letter or P85 means that an in-year PAYE adjustment can be made. Do be aware that where matters are dealt with later on in the UK tax year, HMRC may struggle to issue the NT code before the final payroll run prior to 5 April. In such cases any PAYE refund due will need to await submission of the annual tax return, which may not be until several months later.

US

Foreign tax credits now available for French social security paid by US persons

In a recent status report on a case in US Tax Court, Eshel v. Commissioner of Internal Revenue (Docket 8055-12), the IRS acknowledged that the French Contribution Sociale Généralisée (CSG) and the Contribution pour le Remboursement de la Dette Sociale (CRDS) should be considered income taxes. This means that these taxes would be either deductible or creditable on the US tax returns of US citizens and green card holders (lawful permanent residents).

Previously, the IRS held that these taxes were considered a social levy and could not be claimed as a deduction for foreign taxes paid or included in the calculation of the foreign tax credit on a US return. The US Tax Court initially agreed with the IRS in its 2014 decision on the case; however, under appeal by the taxpayers, the case was remanded to the court with instructions that it consider French law and the views of the US and French governments regarding the Totalization Agreement. On 13 June 2019, documents filed in US Tax Court indicate that the IRS concedes that these taxes are income taxes and should be deductible or creditable on US tax returns.

As a result, US citizens and green card holders may now claim a deduction or credit for these taxes on their US tax returns for the current (2018) year and previous ten years. For taxpayers who claim the Foreign Tax Credit, they may find that claiming these taxes on their previously-filed returns, through amendments, will increase foreign tax credit carryovers applied to 2018. This may create an available credit to offset US taxes due on foreign source income (income earned in a foreign country or countries), which otherwise might not have been available due to the 2018 French "White Year," where no French income tax was due on "non-exceptional" income.

US citizens and green card holders may now claim a deduction or credit for these taxes

BDO Comment

This IRS change in position with respect to claiming a deduction or credit of CSG and CRDS taxes may create opportunities not only for the US citizens and green card holders living and working in France, but also for their employers who may have equalised the taxpayers during their assignment in France and paid the French income, CSG and CRDS tax liabilities.

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