Global Tax Update

FRANCE

A round up of the main 2020 Finance measures

Income Tax Reduction From 2020

Last Spring, the French Government announced an income tax reduction on 2020 income. This has now been voted as part of the 2020 Budget measures. This tax break mainly benefits households whose taxable income sits within the first income band as its rate was reduced from 14% to 11%. Other taxpayers will also benefit, but to a lesser degree.

As a result, individuals should have already received a reduction notification for the 2020 "pay as you go" rate applicable from January 2020. This way, the tax benefit is immediate and taxpayers will not have to wait until their 2020 return has been processed.

Changes to the décote will also benefit lower income taxpayers. It is a tax reduction for households with a gross income tax liability up to €1,717 (single) or €2,841 (couples) for 2020. This was previously fixed at €1,611 and €2,653 respectively for 2019.

The 10% pension allowance cap has been updated to €3,850 with a minimum deduction of €393.

The capping of the 10% deduction on salaries is now set at €12,627 with a minimum of €441.

Taxpayers who house a dependant aged over 75 benefit from an allowance of €3,535.

Mandatory taxation based on "unexplained" external signs of wealth is means-tested using deemed income streams for each "sign of wealth". If these exceed a total annual "deemed income" of €47,109 it triggers a mandatory assessment.

The tax abatement for households with one taxpayer who is over 65 years old or disabled has been increased to €2,442 if their total taxable income is below €15,300, and to €1,221 where the income is between €15,300 and €24,640. This is doubled for couples.

The monthly "pay as you go" ("PAS") payments for January to August 2020 are established on the basis of the reported 2018 income and assessment thereof. Payments for September to December 2020 will be adjusted based on the taxpayers' 2019 income and assessed in Summer 2020 and based on the returns filed in May 2020.

The "pay as you go" system now allows the tax authorities to treat certain taxpayers as having tacitly approved the tax information disclosed by their employers or pension providers, if they have no other sources of income. Taxpayers in this situation will receive a notification of the tax information that will be processed by the authorities. In the absence of any corrections or any reply, the authorities will automatically accept and process these details. The taxpayers will be deemed to have thus fulfilled their reporting obligations. All other taxpayers must continue to report their taxable income and gains before the filing deadline, which is usually around mid-May every year.

The 20% minimum income tax rate applicable to French source income or property gains received by non-residents of France is set at 20% up to €27,794 and 30% thereafter.

The net taxable income is determined according to the French tax computations rules applicable to each type of income. Nevertheless, non-residents do not benefit from certain tax deductions allowed for residents at the level of their global taxable income (such as reductions for dependants, employment of home help and certain principal residence equipment) except certain alimonies as from 2018. The tax liability cannot be lower than the above minimum rates. However, non-resident taxpayers may claim a lower taxation rate but only if they can demonstrate that the average tax rate would be lower if assessed in France on a worldwide basis. This requires full annual disclosure of worldwide income and gains to the French Tax Authorities, so this option is rarely taken up.

Households which include married children, or children with dependants, may benefit from an annual tax-free allowance of €5,947. The same amount is awarded as a tax deduction if a taxpayer provides support (food allowance) to a child over 18. The deduction is doubled, i.e. €11,894 where the child is married or a single parent.

Protection Universelle Maladie

The PUMA is compulsory for any French tax-resident who is not affiliated to any other French or EEA social security system. Post-Brexit, this may affect anyone who can no longer be registered to continued UK health cover under form S1 or any other means.

This is quite significant since it can lead to compulsory PUMA contributions assessed on the taxpayer's income and gains generated from private assets.

Computations of the PUMA contributions apply by reference to the "Plafond Annuel de la Sécurité Sociale" known as PASS, and fixed at €41,136 for 2020 (updated every year).

In summary, the PUMA health cover is compulsory for:

- Anyone who resides habitually in France, and
- Who is not covered under an EEA NI regime (which may include any British citizens living in France post-Brexit), and
- Whose total 2020 annual professional earnings are below €8,227 (limited to €20% of the "PASS").

Exposure to the PUMA triggers the application of the CSG and CRDS at 9.7% on non-French investments income and gains. In the absence of any other health cover, the PUMA contributions are deductible from the taxable income.

IRELAND

Short-term business visitors to Ireland

The Irish tax authorities issued updated guidance in December 2019 with respect to the PAYE treatment of short-term business travellers to Ireland.

With effect from 1 January 2020, for the purposes of determining whether an automatic exemption from PAYE applies to temporary assignees carrying on duties in Ireland, employers are now required only to consider the number of work days spent in Ireland in the current tax year. There is no longer a requirement to consider work days spent in Ireland over multiple tax years.

The effect of the updated guidance is that there will be no requirement to operate PAYE in respect of short-term business visitors to Ireland where the following conditions are satisfied:

- The assignee is resident in a country with which Ireland has a Double Tax Agreement (DTA) and is not tax resident in Ireland
- The assignee has no more than 60 Irish workdays in the current tax year; and
- The assignee is not on the payroll of an Irish employer.

Where a business traveller from a DTA country spends more than 60 workdays but less than 183 days in Ireland in a tax year, there is still a requirement to apply for a release from the obligation to operate PAYE.

BDO Comment

Ireland continues to develop its STBV rules and to be one of the leading countries focused on STBV compliance.

NETHERLANDS

Reporting obligation for employment work in the Netherlands as of 1 March 2020

A new reporting obligation will apply to foreign employers and self-employed persons from the European Economic Area (EEA) and Switzerland who are going to work temporarily in the Netherlands.

Foreign employers and self-employed persons within the European Economic Area (EEA) and Switzerland with a temporary assignment to the Netherlands should report this as of 1 March 2020 via the Dutch online reporting system of the SVB (Dutch Social Security Bank). This new reporting obligation stems from the Posted Workers Directive (in Dutch: WagwEU). The WagwEU is intended to protect employees working conditions and to eliminate unfair competition. For example, the right to be paid a minimum wage, the right to a minimum number of paid vacation days and the right to health, safety and hygiene at work. Other administrative obligations are also included in this Act.

In light of the above, monitoring compliance with employment conditions in the Netherlands is required. This obligation was already included in the WagwEU but had not yet been introduced because as the online reporting system was not available.

With regards to the Aliens Employment Act Implementation Decree you will no longer have to notify the UWV with respect to secondments of employees from third countries who normally work legally in another Member State; from 1 March 2020 this will now be reported via the SVB's online reporting desk.

Obliged to notify are:

- Employers who come to the Netherlands with their own staff
- Multinational companies that second employees to their own branch in the Netherlands
- Temporary employment agencies that make temporary workers available in the Netherlands
- Self-employed persons working in one of the designated sectors.

The transport sector has a few exceptions to the reporting rules. For example, the majority of transport is excluded from the notification obligation.

Failure to comply with this new obligation can result in a penalty for both the foreign employer/self-employed person and the customer/client (service recipient). The service recipient therefore also has obligations in this context. The SZW inspection will carry out the check on the notification obligation.

Work that starts on or after 1 March 2020 in the Netherlands must be reported via the online reporting system. Any ongoing employment work on that date does not have to be reported. The notification consists of information about the activities that will be performed, where these activities will take place and for which service recipient. It must also indicate how long the work will take and which employees will be seconded. If it is not yet known what the exact location of the work will be in the Netherlands, the report can be submitted with the available information. The details of the report can be supplemented at a later time.

BDO Comment

Expect similar changes across the EU as the Posted Workers Directive is implemented.

UK

Earlier capital gains tax filing and payment dates for UK residential property disposals

The government has passed legislation which will have a major impact on the filing and payment obligations of UK resident taxpayers who sell UK residential property from 6 April 2020. This measure applies to individuals and trusts. The legislation applies to capital gains tax only and does not apply to UK resident companies (and from 6 April 2020, non-resident companies) which are subject to corporation tax on capital gains.

The April 2020 changes represent an extension of provisions which have applied to the disposal of UK property by non-resident persons from 6 April 2019.

Disposals before 6 April 2020 (UK resident individuals and trusts)

Currently, a UK resident individual or trust disposing of UK property that results in a taxable gain is required to report that gain on their annual UK self-assessment tax return. The deadline for reporting the gain and paying the tax due is the 31 January following the year of the disposal.

Disposals from 6 April 2020 onwards (UK resident individuals and trusts)

From 6 April 2020, a UK resident individual or trust disposing of UK residential property will be required to file a "residential property return" within 30 days of the completion date of the disposal. Penalties will apply if the return is filed late.

The vendor will be required to pay an estimate of the capital gains tax within 30 days of the completion date. This will be treated as a "payment on account" against their total income tax and CGT liability for that year when the annual self-assessment tax return is submitted.

The individual or trust will, therefore, be required to estimate how much tax is payable which may depend on several factors. If additional tax is due when the annual return is filed, then interest will be payable at the standard rates set by HMRC.

Exceptions

Some common examples of where a return will not be required are (although this list is not exhaustive):

- Where the gain is covered by principal private residence relief for the duration of the taxpayer's ownership
- If a loss arises on the sale of the property
- The gain is sheltered by capital losses crystallised before the sale takes place
- The gain is small enough to be covered by the individual's annual exemption for the year of disposal.

NB: The return and payment on account will not be required where the property disposed of is not residential property or where the property is situated outside the UK.

From a practical perspective, the taxpayer will need to rapidly determine whether (or to what extent) their gain is sheltered through principal private residence relief and, if it is not fully sheltered, what the gain will be and to what extent it will be sheltered by crystallised capital losses or their annual exemption. As these can take time to assess/calculate, it will often before worthwhile to start to assess them before the sale has completed.

Non-UK Residents

Non-UK residents have already been required to file returns within 30 days when they have disposed of UK property, both residential and non-residential, since 6 April 2015, and 6 April 2019 respectively. There are no changes for disposals by non-UK resident individuals or trusts from 6 April 2020.

BDO Comment

The application of this legislation to UK residents is a significant shift in the sense that the tax filing and payment obligations need to be considered immediately on completion of the sale rather than left until after the end of the tax year.

It will be common for individuals to not know precisely what their CGT liability will be at the time of the sale and indeed, some of the relevant information may not be known until after the end of the tax year. It would therefore be prudent to contact your tax advisor much sooner (ideally before completing the transaction) when making residential property disposals in order to submit the returns on time and to determine an appropriate estimate of the CGT liability. Companies will need to determine what, if any assistance/notification they provide to assignees in this regard.

National Minimum Wage

As part of an overhaul aimed to reduce the burden of the legislation on businesses, there have been big announcements recently for National Minimum Wage (NMW) following the review of the naming/shaming policy. As well as changes to the naming scheme the announcement included changes to salaried work, salary sacrifice and deductions from pay.

BEIS Naming & Shaming

The policy of naming and shaming was quietly suspended towards the end of 2018, following a number of high profile complaints from businesses that had inadvertently fallen foul of the complex rules.

The reformed regulations will now reinstate the naming of businesses that fail to pay their workers the NMW with the following changes,

- Increase the arrears threshold over which employers will be considered from naming from over £100 to over £500
- Provide more information about reasons for breaches

- Publish an educational bulletin for employers, highlighting common reasons for underpayment and
- Name employers more frequently than previously.

This new approach will mean that some businesses falling foul of the rules by minimal sums will not be named, provided they correct any errors. It will also mean some underpayments arising from certain salary sacrifice arrangements and deductions will not be subject to naming.

Salary Sacrifice & Deductions

A direction has been issued relating to cases where NMW underpayments have arisen as a consequence of certain employer deductions from pay. This direction addresses some specific instances where the design of a salary sacrifice or deduction scheme is associated with NMW underpayments, despite delivering benefits to participating workers and the worker in practical terms suffers little or no detriment.

The intention of the direction is to ensure that historical liabilities are repaid to workers, whilst providing employers with an opportunity to ensure their practices going forward are compliant with the law. The circumstances in which the direction will apply are tightly limited to ensure the continued protection of workers.

The direction has broadly the following effect. If, following an HMRC investigation, the only reason minimum wage was underpaid was because the employer made a deduction from a worker's pay/enrolled them in a salary sacrifice scheme with the worker's consent and the worker has received the correct good/benefit as a result of that deduction (e.g. childcare vouchers, savings club, season ticket), the employer will not face a penalty (or be named).

This direction does not apply to deductions for items in connection with employment (e.g. uniform), expenses or accommodation.

Salaried Work

Finally, changes to regulations for salaried hours work will widen the range of pay arrangements available to businesses where workers receive an annual salary in equal instalments for a set number of contracted hours.

These changes include:

- Permitting additional payment cycles for salaried workers, including fortnightly and 4-weekly cycles, providing choice and flexibility to employers and workers
- Allowing employers to choose the 'calculation year' fit for their workers, helping them to better monitor the hours worked by salaried workers and identify potential underpayment of wages
- Ensuring salaried workers can receive premium pay, for example, for working on Bank Holidays, without losing their entitlement to equal and regular instalments in pay.

The changes will provide more flexibility in how salaried workers are paid without reducing protections for workers. Although businesses employing salaried workers are now less likely to be caught out by the NMW legislation due to the differences in their hours from one month to the next, there is still complex calculations that will be required to ensure NMW is being paid.

These changes are expected to come into force on 6 April 2020, subject to normal parliamentary approvals.

More information can be found in the NMW enforcement policy document; www.assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/864801/national-minimum-wage-enforcement-policy-february-2020.pdf.

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