Global Tax Update

FRANCE

EU Social Security regulations – applications for A1 certificates

Social security liabilities within the EU are governed by specific social security regulations. They determine where both the employer and employee should be paying their social contribution. The general rule is that contributions are payable where an individual works, however, this is not necessarily the case. The form obtained to establish which country's social system is paid into is called an A1.

Where individuals are claiming exemption from French social security, despite living or working in France, the French authorities are requesting additional information to back up the A1 application. This may include a copy of the underlying employment contract, assignment letter or various other personal information that the French authorities deem necessary. In some cases applications are taking over a year to process with protracted correspondence being entered into.

BDO Comment

French social security rates are amongst the highest in the World. The French authorities are keen to ensure that payments are made into the social system and they appear to have implemented a robust system for checking applications that are requesting exemption. Companies need to be aware that additional checks and balances have been put in place and any applications for exemption from French social security may require further information and additional lead time.

HUNGARY

Social security update

Hungary has announced a number of changes to social security rules as follows:

- An increase in the individual social security contribution rate to 25% and a decrease in the rate which is due by employers for special working conditions to 4%, respectively 8% for outstanding working conditions. For normal work conditions, the employers will no longer be liable to pay mandatory social security contributions
- An increase in individual health insurance contribution rate to 10% and elimination of health insurance contribution due by employers
- With some exceptions, individuals who earn a salary income below the minimum gross salary will pay the individual social security contribution, and the individual health insurance contribution to the level of the minimum gross salary
- Introduction of a new social security contribution due by employers, the insurance contribution for work. The rate for this contribution is set at 2.25% and is applied to income from salary and assimilated to salary

An increase in individual health insurance contribution rate to 10% and elimination of health insurance contribution due by employers

- Other current contributions of the employer are eliminated, namely: unemployment contribution, contribution for medical leave and health insurance allowances, contribution of insurance for work accidents and occupational diseases, contribution to the guarantee fund for the payment of salary claims, as well as the individual unemployment contribution due by employees
- For individuals who obtain income from independent activities, including income from intellectual property rights, the taxable basis for individual social security contributions becomes the chosen income, which cannot be lower than the gross minimum salary
- Excluding salary income, the individual health insurance contribution is due by individuals who have made in the previous tax year or who expect to obtain in the current tax year cumulative annual income of at least 12 gross minimum salaries from independent activities, rental income, income from the association with a legal entity, investment income, income from agricultural, forestry and fishery activities and income from other sources.

The new provisions will apply to income obtained after 1 January 2018. For income obtained before this date, existing provisions apply.

IRELAND

Key Employee Engagement Programme (KEEP)

The Bill confirms the introduction of a new share incentive scheme to facilitate the use of share-based remuneration by unquoted SME companies to attract key employees.

This new scheme is called "KEEP" or "Key Employee Engagement Programme". Under the scheme, gains arising when employees exercise their KEEP share options will be liable to Capital Gains Tax on disposal of the shares, instead of Income Tax, USC and PRSI on exercise (as is currently the case).

There are a number of qualifying conditions, including:

- The share options must be granted at not less than market value on the date of grant
- The share options must be held for a minimum period of one year before exercise (subject to certain limited exclusions) and must be exercised within 10 years of grant
- Employer companies undertaking certain types of activities will not qualify (in accordance with State Aid rules).

This incentive will be available for qualifying share options granted between 1 January 2018 and 31 December 2023.

The introduction of the scheme is subject to Commencement Order, and EU State Aid approval.

PAYE Modernisation

The Bill introduces a number of technical changes to allow for the introduction of real-time reporting under the PAYE Modernisation Programme. PAYE Modernisation represents the most significant reform of the PAYE system since its introduction in 1960. It will result in new processes for employers, agents and Revenue.

Employers will update and report their employee's pay and deductions to Revenue as they are being paid and, in this way, Revenue will have the most up-to-date information possible. Real-time reporting is due to come into effect from January 2019.

The Bill also provides for the following changes, with effect from 1 January 2018:

- A change from an earnings basis to a receipts basis for PAYE employees; and
- New provisions for the recoupment, on a grossed up basis, of Income Tax where PAYE is not operated by an employer.

NETHERLANDS

Proposed new tax rates and 30% regulation changes

The (draft) coalition agreement of the proposed new government of the Netherlands has been published. This agreement carries a large number of proposed new tax regulations. The majority of these proposed regulations should come into force as of 1 January 2019 or thereafter.

Notable proposed tax regulations for individuals are:

Tax Rates

Instead of the current four bracket tax rate system (effectively, this has already been brought down to three brackets) a two bracket system is introduced for personal income taxation for income from work and the first home (below). The higher tax bracket limit will be frozen during the coalition period.

Taxable income from work and first home of more than	-	€68,601
But not more than	€68,600	-
Tax rate (under pensionable age), includes national social security premiums	36.93%	49.50%

30%-Regulation

The government intends to reduce the maximum period of the 30%-regulation from the current eight years to five years. This could have a significant cost impact for long-term secondees to the Netherlands.

SWEDEN

The New Swedish PAYE return

Sweden is implementing a new type of PAYE tax return (employer tax return) from 1 July 2018. Currently an employer reports salaries, taxes and social contributions for the employees in lump sums in monthly PAYE returns. The employer is also liable to file annual income statements on a yearly basis for each employee. In the income years of 2018 and 2019, an employer will be liable to declare all the payments made to each employee individually, every month. The new employer PAYE return will replace the yearly income statements and the employees will be able to track their own individual employer tax return via the Swedish Tax Agency´s website.

The new employer tax return will be enforced in two steps. Companies that are liable to keep a personnel ledger (Sw. personalliggare), such as the ID06, with more than 15 employees needs to implement the new employer tax return by 1 July 2018. Remaining companies have to start reporting accordingly by 1 January 2019.

BDO Comment

The new way of reporting in the employer tax return will increase the transparency for the employee regarding the employee's own PAYE information, since the employee will be able to follow the reporting online. The new type of tax return will also help the Swedish Tax Agency to detect discrepancies in the reporting and correct errors during the income year. However, it will initially require more administration to implement the new way of reporting.

THAILAND

17% flat tax rate for employees working in target industries in the Eastern Economic Corridor (EEC)

Qualifying employees who work for a company that conducts business in targeted industries located in the EEC i.e. the Chachoengsao, Chonburi, and Rayong Provinces located on Thailand's Eastern seaboard, may now choose to pay personal income tax rate at a flat rate of 17%.

The employer must be a company located in the EEC that is exempted from corporate income tax under the law on enhancing the competitiveness of the country for targeted industries or the Investment Promotion Act.

The employer must notify the Revenue Department by filing the required documents before paying the salary for the first time.

The payment must be made in respect of employment at the company's place of business and must be paid entirely in Thailand.

The targeted industries are:

1. Next-generation automotive industry
2. Smart electronics industry
3. Tourism for wealthy people and health tourism industries
4. Agriculture and bio-technology industry
5. Food processing industry
6. Robotics industry
7. Aviation and logistics industries
8. Eco-friendly petrochemical and bio-chemical industries
9. Digital industry; and
10. Medical hub industry.

The employee must meet certain conditions to qualify for the flat tax rate, including:

A. The employee must be a qualified executive, a specialist or a researcher in accordance with the conditions stipulated by the Revenue Department

B. The employee must not have resided in Thailand in the calendar year before they first apply for the flat tax rate or if they did, they must have resided for less than 180 days

C. The employee must stay in Thailand for 180 days or more in the calendar years that they elect to pay tax at the rate of 17%, except that for the first year and the last year they may stay in Thailand for less than 180 days in each of those years.

UK

Termination payments and removal of foreign service relief

Following the recent UK Budget it was confirmed that payments in lieu of notice (PILONs) will all be taxable. Payments for 'injury to feelings' can no longer be exempt while foreign service relief (both the full and partial exemption) will be removed for all except seafarers. Employer's NIC will be due on the excess of termination payments exceeding £30,000 - this will be confirmed in the pending NICs Bill 2017.

Despite the fact that the aim was to simplify the legislation, the new rules remain complex. A calculation of 'post-employment notice pay' (determining the value of the PILON that will be taxable) will be involved and the new rules removing Foreign Service Relief (FSR) have some quirks.

The new FSR rules state that employees who are UK residents, according to the Statutory Residency Test, in the tax year in which their employment is terminated, will not be able to claim tax relief for any work they undertook overseas.

Effectively, this means all UK resident taxpayers will be treated the same, regardless of where they have carried out the related employment duties. Whilst this may not seem equitable, it does appear straightforward.

However, the draft legislation contains a couple of quirks. Firstly, FSR will continue to apply to payments and benefits which are connected to a change in an individual's duties, or to a change in the earnings from their employment. This is true even if the individual is UK resident. This indicates the Government is targeting just payments made on termination of employment.

Secondly, these changes will apply to those who have their employment terminated on or after 6 April 2018. However, partial exemption relief will cease even for payments and benefits actually received from 13 September 2017. The date of termination will determine whether the new or old rules will apply.

BDO Comment

The tax position on redundancy payments is already a complex area, even before the introduction of this new legislation. If you would like advice or guidance on how to manage to impact of the changes announced in the Winter Draft Finance Bill 2017 to 2018 please contact us.

USA

US House passes Tax Reform Bill; Senate Finance Committee considers bill of its own

Overview

On November 9, 2017, the Senate Finance Committee released its version of proposed tax reform legislation, the "Tax Cuts and Jobs Act". The House of

Representatives passed its tax bill on November 16; however, the bill under consideration by the Senate Finance Committee differs in several respects, including individual tax rates, itemised deductions, retaining the estate and GST taxes, the timing of changes to the corporate tax rate, and pass-through tax rates. On November 14, 2017, Finance Chairman Hatch announced some changes to the Chairman's Mark. One modification now would reduce the Patient Protection and Affordable Care Act individual mandate payment to zero. There are also other changes to rates, the child tax credit, the pass-through provisions, and international tax.

Details

Whereas the House bill proposes four individual tax brackets at 12, 25, 35, and 39.6 percent, the modified Senate version would keep the existing number of rates at 7, but lower them to 10, 12, 22, 24, 32, 35, and 38.5 percent. Under both proposals the highest rates apply at $1 million for married taxpayers filing jointly and $500,000 for other filers. Both plans would repeal personal exemptions, but the Senate's increase in the standard deduction is slightly lower than the House's and proposes to increase the standard deduction to $12,000 for single filers and $24,000 for married taxpayers filing jointly. The House and Senate differ on the child tax credit, which would increase to $1,600 or $2,000, respectively.

Itemised deductions for mortgage interest, property tax, and medical expenses are treated differently by the proposed legislation. Both bills would eliminate any mortgage interest deduction based on home equity indebtedness; the House bill would cap acquisition indebtedness at $500,000 (effective for debt incurred on or after November 2, 2017), whereas the Senate would retain the current $1million limitation. Individuals could no longer deduct personal state and local income or sales taxes under either proposal. The Senate bill would also eliminate the local property tax deduction while the House bill would permit a deduction of up to $10,000. Unreimbursed medical expenses that exceed 10 percent of a taxpayer's adjusted gross income would remain deductible under the Senate plan, though any deduction for medical expenses would be repealed under the House proposal.

Regarding the estate, gift, and generation-skipping (GST) taxes, the House bill would increase the individual estate and gift tax exclusion to $10 million (as of 2011) and then adjust for inflation annually before repealing the estate and GST tax for decedents dying and gifts made after December 31, 2024. The Senate bill also proposes an inflation-adjusted $10 million exclusion for individuals, but otherwise maintains the estate and GST taxes without repeal.

The House and Senate bills also handle business taxes differently. Both plans present the same decrease in the maximum corporate tax rate from 35 to 20 percent, but the Senate proposes the change begin in 2019, one year later than the House's proposal of 2018. Furthermore, the House bill would tax certain "business income" from pass-through entities at 25 percent, while the Senate instead proposes a 17.4 percent deduction. Both plans feature provisions designed to prevent pass-through compensation from being taxed at rates lower than the owners' individual rates, subject to certain thresholds.

The treatment of deferred foreign earnings and profits is yet another area where both bills take a similar approach but with different rates. The House proposal would tax certain accumulated earnings and profits represented by cash and cash equivalents at a 14 percent rate, and would tax earnings and profits represented by illiquid assets at a seven percent rate, while the Senate rates would be 10 and 5 percent, respectively. Additionally, the Senate bill includes proposals to address similar base erosion concerns as the proposals in the House bill but, in some cases, such proposals operate in a different manner to achieve a similar objective. The Senate bill also includes certain other proposals that were not included in the House bill, such as the repeal of the special rules for DISCs and IC-DISCs and the denial of interest or royalty deductions for certain related party amounts paid or accrued pursuant to certain hybrid transactions, or by, or to, a hybrid entity.

The modified Senate proposal would repeal of the Patient Protection and Affordable Care Act individual mandate; the House bill does not contain this provision.

BDO Comment

Congress is moving quickly to advance tax reform legislation, although it is unclear when, or if, an agreed bill will be passed by both houses of Congress. The House passed its version of tax legislation this week, while Senate Finance markup continues. The process may slow, however, as Senate Republicans seek support, budget and expense restrictions are navigated, and differences between the bills are reconciled.

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2018 Global HR Conference

Global Mobility Trends & Tax Implications

This session will look at a global mobility trends from a number of different surveys drawing conclusions from these and will then examine some of the tax and social security implications that result from these trends. It will cover tax issues primarily from a UK perspective but will also touch on social security and business travellers.

Hosted by
Andrew Bailey,
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To register your place at this FREE conference, please email helen@internationalhradviser.com

Monday 29th January 2018
from 1pm onwards
Smith & Wollensky,
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