Global Tax Update

EUROPEAN UNION

Cross-border teleworkers and their employers

The European Economic and Social Committee (EESC), a consultative body of the European Union, recently released a statement on the taxation of cross-border teleworkers and their employers.

Some of the key points raised in the document include the following:

- Cross-border teleworking poses particular challenges to the current international taxation systems, particularly in relation to the taxation of wages and the taxation of company profits
- A cross-border teleworking employee could face double taxation on his or her income, resulting in lengthy and costly disputes between the employee and member states' tax authorities
- In terms of the taxation of company profits, international teleworkers may inadvertently create a permanent establishment (PE) for the company in a country other than its own. If a PE were established in another country, the company would be forced to accurately divide its corporate income between the two locations, and thus be subject to different filing obligations and tax liabilities
- It is important that taxation systems be updated further to address the needs of today's work environment. The international corporate tax framework has recently been overhauled through an agreement on an OECD/G20 Inclusive Framework tax package consisting of two pillars
- Any new rules addressing the taxation of cross-border teleworkers should be easy for both employees and employers. One possibility would be for member states to agree to only tax the employee if the number of working days in the country exceeds 96 days per calendar year. The EESC notes that in the OECD/IF tax work, a multilateral instrument (MLI) has been used as a tool to facilitate a timely implementation of new tax rules
- The EESC encourages the EC to consider whether a one-stop shop, like the one in the VAT area, could be a possibility. It would require the employer to report the number of days cross-border teleworkers worked in their country of residence and in the country where the employer is located.

BDO Comment

The EU's interest in this area mirrors that of other countries such as the UK. In September 2022, the Office of Tax Simplification (OTS) requested evidence regarding emerging trends and tax implications of hybrid and distance working. These trends are here with us to stay, and a more efficient way of addressing taxation implications are being sought across the world.

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IRELAND

Budget 2023 measures affecting employment tax

Ireland's Minister for Finance presented Budget 2023 on 27 September 2022. The key employment tax measures announced are as follows:

Special Assignee Relief Programme (SARP):

SARP provides income tax relief for certain individuals who are assigned to work in Ireland from abroad. The main benefit of the programme is that 30% of the individual's income in excess of EUR 75,000 is removed from the income tax net. There are a significant number of qualifying conditions to be satisfied to avail of this relief.

The SARP is being extended for another three years through 31 December 2025. However, for individuals claiming the relief for the first time in 2023, their basic salary will have to be at least EUR 100,000, increased under the budget measures from EUR 75,000. Existing claimants are not affected by this change.

Foreign Earnings Deduction (FED):

The FED scheme is being extended for another three years through 31 December 2025. The FED provides relief from income tax on up to EUR 35,000 of income for Ireland tax-resident employees who travel out of the state to temporarily carry out employment duties in certain countries.

Small Benefit Exemption:

Generally, where an employer provides a voucher or other incentive to an employee, it is chargeable to pay-as-you-earn (PAYE), the Universal Social Charge (USC) and pay-related social insurance (PRSI). The "small benefit exemption" enables an employer to provide a voucher or an incentive to an employee without giving rise to a charge to tax where certain conditions are satisfied.

The budget increases the small benefit exemption limit from EUR 500 to EUR 1,000 per year. An employer can now provide up to two (previously one) benefits, totalling EUR 1,000, in a year. These changes take effect from 28 September 2022, so the increases can be provided to employees in the current tax year.

Rate Bands And Credits:

There will be a significant increase in the standard rate cut-off point to EUR 40,000 so a single individual can now earn an additional EUR 3,200 before paying tax at 40%. There is also a EUR 75 increase in the personal tax credit, employee PAYE and earned income tax credits.

Finally, while there are no increases to the employer PRSI rates, this may only be a temporary reprieve as this issue is part of the government's medium-term roadmap for personal tax reform.

Finance Bill 2022 Includes Employment Measures

Ireland's recent Finance Bill, released on 16 November 2022, introduced some changes regarding employment taxes that were not highlighted in the Minister of Finance's Budget speech on 27 September.

Employer Reporting Obligations For Certain Benefits:

In a significant development, the Finance Bill proposes the introduction of new reporting requirements for certain tax-free payments made to employees. These include:

- Travel and subsistence payments
- Allowances paid for remote working
- Small benefits.

Employers will be required to report details of such payments electronically monthly. Although precise details of the reporting requirement are pending, the reporting of travel and subsistence payments is likely

to create significant additional work and complexity for employers and may require changes to their systems to facilitate compliance. Although these payments are exempt from PAYE, the proposed amendment may give the Revenue increased oversight of such payments and the ability to manage any perceived tax risk. This proposal is subject to ministerial approval.

Share Options:
Irish Revenue continue to focus their attention on employee share plans. The bill now empowers the Revenue to impose a penalty on employees exercising share options who fail to comply with the requirement under existing share option legislation to file a return (Form RTSO1). Share option gains are not subject to payroll taxes in Ireland, but are taxed through the self-assessment regime.

Pensions
The bill also includes several pension-related amendments.

In a welcome change, employer contributions to a Personal Retirement Savings Account (PRSA) made on behalf of an employee are no longer considered a taxable benefit-in-kind for the employee. Previously, this treatment applied only to occupational pension plans.

The Finance Bill also introduced a number of provisions to give effect to the EU regulations on the creation of Pan-European Pensions Plans (PEPPs). The bill provides for a new form of approved pension product (the PEPP), which will be like existing Irish PRSAs. The tax treatment of benefits and contributions to PEPPs will be the same as applies to other pension products currently available in Ireland. Of particular interest will be individuals' ability to continue to contribute to their PEPP, even if they change residence between EU jurisdictions, and potentially claim tax relief in their country of residence.

Significant Forthcoming Changes To The Taxation Treatment Of Company Cars
Executive Summary:
Significant changes to the basis of taxing the benefit in kind (BIK) arising from the provision of a company car will come into effect from 1 January 2023. The new provisions, which are already on the statute book, will change the basis of the charge from one based solely on the original market value ('OMV') of the car and business mileage travelled, to one which also takes account of the vehicle's CO_2 emissions. This will result in a higher level of BIK being imposed on cars with higher emissions. The changes will apply to existing company cars as well as new cars provided to employees on or after 1 January 2023. Employers who provide cars to their employees will need to take account of these changes in their payroll systems and also review the calculation of current BIK charges.

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New Basis Compared To Old:
At present the BIK on company cars is calculated at the rate of 30% of the original market value of the car. A discounted rate is granted where the employee incurs significant business related travel. Currently, there are five mileage bands which provide for a BIK charge ranging from 30% to 6% of OMV depending on the level of business mileage incurred. These will be reduced to four bands.

The new system will retain both OMV and business mileage as factors in calculating the BIK charge, however, it will also take account of the vehicle's CO_2 emissions. For many users with cars in the middle of the emissions range, it is likely that the BIK charge under the new system will remain the same as at present. Those with cars in the highest emission range (over 179g/km), will however, see an increase in the percentage benefit in kind charge across all mileage bands, with a new maximum rate of cash equivalent/benefit in kind of 37.50%. Furthermore, the minimum BIK rate after discounts for business mileage will increase from 6% to 9%.

Example:
- Employee has use of a car provided by his or her employer on 1 January 2022
- The OMV of the car is €28,000
- The car produces 180g/km in CO€ emissions
- The actual business kilometres travelled in the year are 32,000 kilometres.

Current Basis
The cash equivalent/BIK is equal to the OMV x 24% (€28,000 x 24%) = €6,720
New Basis effective 1 January 2023
180g/km in CO€ emissions puts the car in vehicle category E under the new system. The applicable BIK rate is 30%.

The Cash Equivalent/BIK is equal to the OMV x 30% (€28,000 x 30%) = €8,400.

Electric Cars:
The legislation also provides for the tapering (reduction) of the current BIK exemption for electric vehicles (EVs). This will see the current exemption reducing as follows;

Year	BIK Exemption for EVs
2022:	€50,000
2023:	€35,000
2024:	€20,000
2025:	€10,000
2026:	NIL

Company Vans:
The flat rate BIK charge on company provided vans, currently set at 5% of OMV will increase to 8% from 1 January 2023. The exemption for electric vans will be tapered on the same basis as for electric cars from 2023.

BDO Comment
Employers who provide cars or vans to their employees for private use will need to review the treatment of these benefits now to determine the impact of the changes and to ensure that the correct notional pay is subject to tax with effect from the beginning of 2023. In light of current pressure on fuel prices and the need to address climate change, it may also be an appropriate opportunity to consider whether the provision of cars as a benefit in kind continues to be an appropriate part of remuneration policy going forward.

Should you need any assistance with the implications of any of these changes please contact your BDO advisor.

NETHERLANDS

Budget proposes updates to 30% scheme

In its September 2022 budget proposal, the Dutch government announced that, for 2023 and onwards, it would amend the 30% scheme to limit the maximum amount that eligible employees may receive as a tax-free allowance.

Under the 30% scheme, employees with specific expertise who are recruited abroad to work in the Netherlands are currently eligible to receive up to 30% of their taxable wages tax-free.

The Dutch government has confirmed its plans to limit the 30% scheme by capping the salary basis to which the 30% is applied to the maximum set in the Standards for Remuneration Act effective 1 January 2024 (in 2022 the maximum is set at EUR 216,000). The intent is to include a transitional arrangement

to decrease the maximum to EUR 216,000 for employees that have taken advantage of the 30% scheme during 2022. These employees' 30% scheme will be limited from 1 January 2026 onwards. Employees who apply for the 30% scheme on or after 1 January 2023 will be subject to the aforementioned limitation from 1 January 2024 onwards.

SINGAPORE

Administrative concession for employer contributions to mandatory pension/ provident funds to be withdrawn

With effect from the Year of Assessment 2025, concessionary tax treatment that currently is available to employer contributions to an overseas pension fund or social security scheme will be withdrawn in Singapore.

Technically, employers' contributions to overseas pension plans or social security schemes are taxable benefits that must be reported by the employer to the Inland Revenue Authority of Singapore (IRAS) in the relevant Return of Employee's Remuneration Form. However, as an administrative concession, the IRAS treats the employer contributions as not taxable if all of the following conditions are fulfilled:

- Contributions are made by the employer to a social security scheme operated, regulated and supervised by the employees' home country government
- Contributions are mandatory even though the employees are working outside their home country
- Contributions are not borne by, or no deduction is claimed by, a permanent establishment/company in Singapore; and
- The Singapore company is not an investment holding company, a tax-exempt body, a representative office or a foreign company not registered in Singapore.

Withdrawal Of Concessionary Treatment

As noted above, the concessionary tax treatment will cease to apply as of year of assessment 2025. As a result, all contributions made by the employer to an overseas pension fund or social security schemes on or after 1 January 2024, will be taxable in the hands of the employees, regardless of whether the contributions are considered mandatory or nonmandatory for the employees during their period of employment in Singapore. With these changes, the contributions to the overseas pension will be deductible to the employer provided the normal tax rules for the deduction of business expenses are met.

BDO Comment

The withdrawal of the administrative concessions follows removals of other administrative concessions, such as home leave passage and the provision of housing benefits previously available to foreign employees working in Singapore. The change is in line with the IRAS' intention to have a consistent application of the principle of taxability of income and benefits in the hands of the employees, and will likely increase the tax liability of foreign employees working in Singapore. As the changes will take effect from 1 January 2024, employers should have sufficient time to prepare for the change in tax treatment. Employers are encouraged to review their systems to ensure that information is readily available to meet the tax filing needs.

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UK

HMRC investigating UK account holders of Euro Pacific International Bank

The UK's HMRC has confirmed that it is investigating hundreds of UK taxpayers who are suspected of using the Euro Pacific International Bank to evade UK taxes, as part of its "No Safe Havens" strategy. The bank's operations have already been suspended by the Puerto Rican authorities for non-compliance with Puerto Rican regulations.

HMRC is part of the Joint Chiefs of Global Tax Enforcement, known as the J5, which comprises leaders of tax enforcement authorities from Australia, Canada, the UK, the US and the Netherlands. The J5 is involved in this investigation with the Puerto Rican authorities, which follows on from another launched two years ago against suspected tax evasion and money laundering.

The bank, which was formed in St. Vincent and the Grenadines in 2011 before moving to Puerto Rico, provides accounts for individuals and small and medium-sized enterprises (SMEs) amongst others, including mutual funds and precious metal accounts.

HMRC normally receives details of UK taxpayers' overseas bank accounts through the Common Reporting Standard (CRS), which requires participating countries to report personal data annually to the account holders' home jurisdictions. Puerto Rico is one of the few jurisdictions that did not adopt the CRS, so this investigation should provide HMRC with new information on accounts held at Euro Pacific International Bank by UK-resident individuals.

HMRC is checking whether account holders have correctly disclosed Puerto Rican accounts and associated investments on past tax returns. If they have not, HMRC will open civil investigations or launch criminal investigations with a view to prosecution; we understand some criminal investigations have already started.

To help speed up the investigation process, HMRC is urging taxpayers connected to the bank to contact HMRC to disclose any undeclared UK taxes. Disclosures may be made via HMRC's Worldwide Disclosure Facility (WDF) or its Contractual Disclosure Facility, also known as Code of Practice 9 (COP9). It is essential to carefully consider which disclosure method is appropriate based on each taxpayer's specific circumstances before approaching HMRC. For example, COP9 provides protection from prosecution for tax offences, in exchange for a full disclosure of all UK tax irregularities, so it can be beneficial in many cases.

BDO Comment

UK residents who hold or held accounts or investments with the bank should seek urgent, bespoke advice from experienced tax dispute resolution specialists who can support them through the disclosure process until a settlement covering tax, interest and penalties is reached. Those taxpayers who are directly approached by HMRC first will also likely need specialists to guide them through the tax investigation they face.

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