BDO

MARCH 2017 ISSUE 26
WWW.BDO.GLOBAL

EXPATRIATE NEWSLETTER

UNITED KINGDOM

SHORT TERM BUSINESS VISITOR REPORTING – 31 MAY DEADLINE

HMRC has placed great emphasis on companies tracking their business visitors to the United Kingdom over the past few years. They have made it clear that businesses have an obligation to ensure they are being compliant and collecting PAYE where it is due. Broadly speaking, where an individual is in the United Kingdom working for the benefit a United Kingdom company, the income they earn relating to that work is taxable and therefore a PAYE liability arises.

The majority of business visitors are ultimately likely to be exempt from United Kingdom tax under the terms of a double tax treaty. An agreement can be put in place with HMRC whereby PAYE need not be operated where it is clear treaty exemption will be due. Year end reports need to be submitted to HMRC by 31 May following the end of the tax year to provide the necessary information to claim this exemption however. Without an agreement in place, PAYE must be operated and the individuals need to file self assessment tax returns to effect any relief under a double tax treaty.

Other countries are also focussing on business travellers and double tax treaties continue to evolve in this area. As you can read elsewhere in this publication, the Irish authorities have recently revised their thinking on what constitutes an employer, moving away from where the employment contract sits and bringing it in line with which entity bears the risks and costs involved (the 'economic employer'). Canada has also updated their immigration rules, requiring visitors to apply for an extension to their authorised period of stay at least 30 days before it expires.

BDO comment

It has been clear for some time that global authorities have been focussing on business travellers, not only from an income tax point of view but also in relation to permanent establishment issues, transfer pricing (and immigration). We have written a more detailed article on this and if you would like a copy please do let us know.

Companies must have a robust tracking mechanism in place and many are increasingly looking for a software solution to help them with this. We have recently released BDO QuickTrip which is an online platform coupled with a smartphone app. Business travellers use the app to log their trips and this information can then be used by employers to generate schedules for year end reporting or to give them a snapshot throughout the year. There are built in alerts which are sent to HR contacts when thresholds may be breached from both a tax and immigration perspective. This helps with pro-active management of staff and can avoid issues such as the '30 day rule' in Canada being breached.

If you would like more information on QuickTrip please contact me or your usual BDO contact.

ANDREW BAILEY
andrew.bailey@bdo.co.uk

CONTENTS

EDITOR'S LETTER

The BDO Expatriate Newsletter provides a brief overview of issues affecting international assignees, predominantly, but not exclusively, from a tax and social security perspective.

This newsletter brings together individual country updates over recent months. As you will appreciate, the wealth of changes across multiple jurisdictions is significant so to provide easily digestible information we have kept it to the key developments that are likely to affect your business and international assignees.

For more detailed information on any of the issues or how BDO can help, please contact me or the country contributors direct.

ANDREW BAILEY
andrew.bailey@bdo.co.uk
+44 207 893 2946

BELGIUM

SIGNIFICANT REDUCTION IN SOCIAL SECURITY CONTRIBUTIONS FOR EMPLOYERS

Belgium is typically known to be one of the most expensive countries when it comes to labour cost. The Act of 26 December 2015 (also known as the 'Tax Shift' Act seeks to remedy that reputation, by gradually decreasing the contributions due for employers in the profit sector on top of the gross income they pay their employees.

To encourage new investments, the decision has been taken to reduce the employer contributions from an average of 35% to 25% as of 1 January of 2018.

The social security contributions for employees have not changed and continue to amount to 13.07%.

In addition to the decrease in the percentage of employer social security contributions, new employers in Belgium can benefit from a virtually complete exemption from employer contributions for the first employee they recruit during the period 1 January 2016 to 31 December 2020, and further reductions of employer contributions with respect to the 2nd to 6th employee. The following reductions apply for 2017:

	Reduction	Employment period
1st Employee	In principle full exemption	Entire employment period
2nd Employee	– EUR 1,550	– Max. 5 quarters
	– EUR 1,050	– Max. 4 quarters
	– EUR 450	– Max. 4 quarters
3rd Employee	– EUR 1,050	– Max. 5 quarters
	– EUR 450	– Max. 8 quarters
4th Employee	– EUR 1,050	– Max. 5 quarters
	– EUR 450	– Max. 4 quarters
5th Employee	– EUR 1,000	– Max. 5 quarters
	– EUR 400	– Max. 4 quarters
6th Employee	– EUR 1,000	– Max. 5 quarters
	– EUR 400	– Max. 4 quarters

With these reductions, Belgium has actually become a country with a very moderate employment cost.

BDO comment

Belgian social security costs will be less prohibitive from 2018, with the Belgian government looking to encourage investment into the country.

IMPACT OF THE CONSUMPTION GOODS AND SERVICES INDEX

In Belgium, the evolution of the consumer goods and services index has an impact on employment wages. This is firstly because the tax figures are adjusted (indexed) annually and secondly, the consumption goods and services index is taken into account to adjust the salaries that employers need to pay to their employees. The government had announced a temporary index leap during which no salary adjustments have been made. However recent index fluctuations have caused the end of this index leap period. As a result, employees in industry sector 200 (most white collar workers in services and general industry sectors) received a mandatory salary increase of 1.13% in January. Adjustments in other sectors will most likely follow in the coming months.

The indexed figures for tax year 2018 (income of 2017) have been published in the Belgian Official Journal on 23 January 2017. The following progressive tax rates apply to both resident and non-resident tax payers (the latter include individuals subject to the Belgian Special Regime for Foreign Executives):

Tax rate	Income (year)	
25%	EUR 0.00	EUR 11,070.00
30%	EUR 11,070.00	EUR 12,720.00
40%	EUR 12,720.00	EUR 21,190.00
45%	EUR 21,190.00	EUR 38,830.00
50%	> EUR 38,830.00	

These rates are increased further by additional municipal taxes which are calculated on the amount of income tax due.

Every resident tax payer is entitled to a tax free allowance:

	Amount exempt from income tax
Basic tax free allowance	EUR 7,270.00
Increased tax free allowance	EUR 7,570.00

The basic tax free allowance applies when the amount of taxable income exceeds EUR 27,030.00. The increased allowance applies when the amount of taxable income is lower than or equal to EUR 27,030.00. When the taxpayer has children or other dependents, the tax free allowance may increase.

The amount of income subject to income tax (*i.e.* the taxable income) is determined by deducting the **legally obligatory** social security contributions and a lump sum for deemed professional expenses from the total gross income.

BDO comment

The highest progressive tax rate in Belgium is 50% + additional municipal tax. All taxable income from EUR 38,830.00 onwards is subject to this highest bracket. It is therefore important to mitigate this as far as possible with judicious tax planning.

PETER WUYTS
peter.wuyts@bdo.be

FRANCE

INCOME TAX WITHHOLDING

The 2017 French Finance Act was adopted by the French parliament on December 2016. The key measure of this act is the introduction of a general income tax withholding. Currently in France a tax self-assessment system is in place: taxpayers file and pay annually an income tax return based on income they received the year before.

When will it come into force?

As of 1 January 2018 the new tax withholding system will be implemented.

Which types of income will be subject to tax withholding?

Wages, replacement income, pensions, real estate income, independent workers income and life annuities will be subject to the new tax withholding system known as '*prélèvement à la source*'. Capital gains and passive income will be excluded from this tax withholding.

How will it be implemented?

For wages, an income tax will be withheld monthly by employers each time a payment is made after deducting social security contributions but before the professional fees deduction or the 10% pension tax allowance. Employees paid by foreign employers will be responsible for payment of the monthly or quarterly payment.

Independent workers will be required to personally withhold advanced payments monthly or quarterly based on their last known income. These advanced payments will be directly debited from their bank accounts by the tax authorities.

What rate will apply for the withholding tax?

The withholding tax rate will be communicated by the French tax authorities. It will be determined based on the last known declared income. Each year the applicable rate for income received from January to August will be determined based on the income declared on N-2. The applicable rate for income received from September to December will be determined based on the income declared on N-1.

If the employer is not provided with a withholding rate, they will apply a standard rate known as '*taux neutre*". This standard rate will be used when a taxpayer has never filed a tax return or when, for confidentiality reasons, an employee does not want to disclose his rate to his employer.

What are the duties of the paying entities?

Employers have to apply the tax rate communicated by the tax authorities to withhold a part of the employee's income and transfer the amount withheld to the tax authorities.

Independent workers have to pay directly via advanced payments and add a complement if needed.

What are the potential penalties incurred?

In the case of a delay, shortfall or failure to pay the withholding tax, the collecting agent and the taxpayer incurs penalties or an increase in the amount of tax due.

What about the 'white year' or 'lost year'?

In 2018, taxpayers would be exposed to a double payment: the income tax based on their 2017 income and the income tax based on their 2018 income. Thus an exceptional tax credit will be implemented in 2018 in order to neutralise the 'non-exceptional' income received in 2017 thus avoiding a double tax contribution in 2018.

Tax credits and tax reductions attached to income received in 2017 will be maintained.

The tax credit will be calculated on non-exceptional income only in order to avoid tax optimisation.

What qualifies as exceptional income?

For employees, exceptional income consists of severance payments, corporate officer's termination payments or retirement severance payments.

It will be possible for the taxpayer to ask the tax authorities to rule on the qualification of the income.

For independent workers, profit regarded as non-exceptional income equates to the lowest amount between the 2017 net taxable income and the highest taxable income of the 3 previous years i.e. 2014, 2015 and 2016.

What about the 2017 French hypo tax?

The principle of hypo tax is that an employee should not suffer more tax than he would have paid had he remained in France.

In theory, no 2017 hypo tax should then be withheld as 2017 would be a 'white year'.

In practice the reform raises the following issues questioning if the 2017 hypo tax should be maintained or not:

- The reform is applicable from 1 January 2018, and the credit to avoid the 2017 tax would be granted in 2018 only;
- The coming elections in May could have an impact on the reform (cancellation or postponement);
- A hypo tax may be necessary to cover exceptional income if any.

US Tax implications for US citizens/residents working in France

The tax effect of the 2017 French Finance Act on United States citizens working in France may come as an unexpected surprise, affecting tax credit offset in the United States and United States withholding for 2017.

Tax credits on a US tax return?

As is common for a United States person (citizen or lawful permanent resident/green card holder) who lives and works abroad for an extended period of time, he/she will continue to be held to United States income tax laws as a resident of the United States, filing Form 1040 and reporting worldwide income on an annual basis. When a United States person is required to pay tax in that host country, they are eligible for foreign tax credit on the United States income tax return to prevent double taxation.

In order to claim the tax credit, an individual can choose the accrued or paid method to report the tax due to the other country. When a country withholds income tax each period throughout the year, it is common to use the paid method for the credit on the United States return. When a country, such as France under prior regulations, does not withhold, it is common to accrue the tax credit. Therefore, up until now most United States expatriates in France have accrued the tax on the United States tax return each year to match the correct tax liability incurred there even if not paid in the same year. For example, if USD 20,000 is expected to be owed in France for 2017 taxes, a credit for up to that amount can be taken on the 2017 United States tax return even if not yet paid.

Potential issue in 2017?

If France implements the exceptional credit for 2017 as discussed above, there will be no tax associated with the non-exceptional income in that year to accrue and offset the 2017 US tax. Therefore, United States persons will find themselves owing more tax to the IRS than usual.

Accordingly, quarterly estimated tax payments, or an increase of United States withholding on wages paid by United States entities should be considered in order to avoid underpayment penalties in the United States or a larger than expected balance will be due with the 2017 United States tax filing in 2018.

Company cost savings opportunity?

In the case where a company is tax equalising their United States expatriates, there could be a cost saving at the corporate level. To the extent the French tax rate would have been higher than the assignees' United States tax rate the company may save tax in the equalisation process by not having a liability to France on the assignees wages for one year.

In many cases, the French rate is lower than the United States rate, so no real savings will occur since 100% of tax at the United States rate would be due in either case.

Set in stone?

Although this new legislature is set to take effect 1 January 2018, there is a possibility that after the French elections in May, the traditional way of paying tax in France will be restored.

BDO comment

This is a significant change in the French tax system and employers must be ready to implement withholding tax as well as considering how this will affect tax equalised assignees. It may well have a knock on effect in other countries as well, as highlighted by the further considerations required for United States tax payers.

JACQUES SAINT-JALMES
jsaintjalmes@djp-avocats-bdo.fr

DONNA CHAMBERLAIN
dchamberlain@bdo.com

GERMANY

TAXATION OF SEVERANCE PAY

The German legislator has changed the principles for the taxation of severance pay in the context of the application of anti-BEPS measures.

Pursuant to previous decisions of the Federal Finance Court (Bundesfinanzhof, BFH) in the matter of taxation of severance pay, the taxation right was allocated solely to the state of residence of the employee. It was essential to establish where the permanent residence of the employee was on the date when he received the severance payment. This interpretation was based on the fact that severance payments were not treated as payments derived from the state where the employment was exercised by the time of the termination of the employment; on the contrary, severance payments were interpreted as a compensation for the loss of the job. With the change of residence to another state, taxpayers could avoid taxation of their severance payments in Germany.

From the beginning of 2017, for the purpose of applying Double Taxation Agreements (DTA), the newly introduced § 50 (d) (12) of the German Income Tax Act grants the right of taxation on severance payments to the state which had the right to tax the regular salary of the employee during the employment relationship. Severance pay is now classified as remuneration for former activities (employment). It seems that it is no longer possible to completely avoid the taxation of severance payments through moving from Germany to another country.

However, this new rule shall not apply if a DTA provides a specific and deviating provision regarding severance payments. In this case, it is assured by German Income Tax Act that the deviating rule in the DTA will be applied.

It is interesting to note that, severance payments which fail to be taxed either in Germany or abroad will not be exempted from taxation but, on the contrary, will be taxable in Germany. Therefore, in case of negative income qualification conflict, a subject-to-tax clause will be applied.

BDO comment

In the future it will be necessary to allocate severance payments according to the actual circumstances in the former employment. This means that, for cross-border employees' secondments, severance payments will be split between the states where the employment was exercised.

CHRISTIANE ANGER
christiane.anger@bdo.de

HONG KONG

2017/2018 BUDGET HIGHLIGHTS

On 22 February 2017 the Financial Secretary, Mr Paul Chan delivered the 2017/18 Budget. The Budget is largely in line with, if not over, his predecessor's prudent approach of managing public finances and keeping expenditure within the limits of revenue.

The estimated consolidated budget for 2016/17 is a surplus of HKD 92.8 billion, which is significantly higher than the original forecast of HKD 11.4 billion owing to the increase in revenue from land sales and stamp duty. The fiscal reserve is expected to be HKD 936 billion by 31 March 2017. The forecast for 2017/18 is a surplus of HKD 16.3 billion with an estimated fiscal reserve of HKD 952 billion by 31 March 2018, representing 37% of GDP and equivalent to 23 months of government expenditure.

Despite the huge surplus, Mr Chan said the Government could neither propose a tax cut, which erodes Hong Kong's tax base, nor adjust the tax rates frequently as this would affect the predictability of our tax regime and dent investor confidence. Hence, no changes to our tax regime and tax rates were proposed. Instead, he proposed a plan to set up a tax policy unit to review Hong Kong's tax base and long term tax incentive policy.

One-off measures

- Reduce 2016/17 profits tax by 75%, subject to a ceiling of HKD 20,000.
- Reduce 2016/17 salaries tax and tax under personal assessment by 75%, subject to a ceiling of HKD 20,000.
- Waive rates for four quarters of 2017/18, subject to a ceiling of HKD 1,000 per quarter for each rateable property.
- Provide one month extra allowance to recipients of Comprehensive Social Security Allowance, Old Age Allowance, Old Age Living Allowance and Disability Allowance; similar arrangement will apply to Low-Income Working Family Allowance and Work Incentive Transport Subsidy.
- Extend waiver of the first registration tax of electric commercial vehicles, motor cycles and motor tricycles to 31 March 2018, with a cap of HKD 97,500 for electric private cars from 1 April 2017.

Recurrent tax measures

- Widen the marginal bands for salaries tax rates from HKD 40,000 to HKD 45,000.
- Increase dependent brother/sister allowance from HKD 33,000 to HKD 37,500.
- Increase disabled dependent allowance from HKD 66,000 to HKD 75,000.
- Extend the entitlement period for the tax deduction for home loan interest by a further 5 years to a total of 20 years while maintaining the current ceiling of HKD 100,000 per year.
- Increase the deduction ceiling for self-education expenses from HKD 80,000 to HKD 100,000.

Other highlights

- Introduce a bill in 2017 to offer tax concession to promote aircraft leasing and financing.
- Propose to extend the profits tax exemption to onshore privately-offered open-ended fund companies.
- Examine tax deduction for the purchase of regulated health insurance products.
- Explore enhanced tax deductions for innovation &technology expenditure.
- Expand tax treaty network.

CELESTINE YEUNG
celestineyeung@bdo.com.hk

INDIA

UNION BUDGET 2017-18 – AN UPDATE

In the backdrop of strong economic indicators for India as a bright spot amidst the global scenario, the Indian Finance Minister presented the Union Budget 2017-18 on 1 February 2017. In the run-up to the Budget, India witnessed a surge of anxiety and disruption perpetuated by the Government's bold demonetisation drive. With high expectations from 'the make or break' budget, the thrust of tax proposals focused on stimulating growth, provision of affordable housing, promoting digital economy and simplification of tax administration.

The proposals in the Finance Bill presented would come into force for fiscal year commencing 1st April 2017 unless specifically mentioned otherwise.

We have summarised below the key direct tax proposals impacting individuals.

Rates of tax

Below are the proposed rates of tax for individuals for fiscal year 2017-18 (01 April 2017 to 31 March 2018):

	Age of the individual		
Income slabs (INR)	Below 60 years	Above 60 years but below 80 years	80 years and above
Up to 250,000	NIL	NIL	NIL
250,001 – 300,000	5%	NIL	NIL
300,001 – 500,000	5%	5%	NIL
500,001 – 1,000,000	20%	20%	20%
1,000,001 and above	30%	30%	30%

There is a proposed tax rate cut from 10% to 5% for taxpayers having income between INR 0.25 million to INR 0.5 million and will provide a small relief to such taxpayers.

The other proposed amendments to existing provisions are mentioned below:

Particulars	Existing provisions	Proposed amendments
Rebate	Annual taxable income up to INR 0.5 million; rebate is least of the below: – Actual amount of tax; or – INR 5,000	Annual taxable income up to INR 0.35 million; rebate is least of the below: – Actual amount of tax; or – INR 2,500
Surcharge	Surcharge at 15% on tax if annual taxable income exceeds INR 10 million	– Surcharge at 10% on tax if annual taxable income exceeds INR 5 million but less than INR 10 million – Surcharge at 15% on tax if annual taxable income exceeds INR 10 million
Marginal relief	Allowed if annual taxable income exceeds INR 10 million	Allowed if annual taxable income exceeds INR 5 million

The Education cess and Secondary and Higher education cess shall continue to be levied at 2% and 1% respectively.

Capital gains

- Base year of indexation for computation of capital gains is proposed to be changed from Year 1981 to Year 2001. For assets acquired prior to 1 April 2001 the cost to be considered is the higher of original cost or Fair Market Value (FMV) as on 1 April 2001.
- In case of Long Term Capital Gains (LTCG), the period of holding for immovable property (land/building) is proposed to be reduced from 3 years to 2 years.
- LTCG exemption on transfer of listed securities is proposed to be available only if Securities Transaction Tax (STT) has been paid at the time of both acquisition and sale of securities. Further, to protect genuine cases where STT could not have been paid (such as ESOPs, etc.), the Government may issue a separate notification relaxing the condition of STT on acquisition.

Loss from house property

Currently, any loss from house property can be freely adjusted against other heads of income. It is now proposed to restrict the adjustment amount to INR 0.2 million per fiscal year. Any unadjusted loss shall continue to be eligible for carry-forward for 8 subsequent years and adjusted only against income from house property in such years.

This provision is likely to have an adverse impact for individuals having a mortgage loan against house property.

National Pension System (NPS)

- **Deduction on contribution**
  In case of non-salaried individuals the deduction limit is proposed to be increased from 10% to 20% of gross total income. This is to bring parity across all subscribers to NPS.
- **Tax exemption on Partial Withdrawal**
  It is now proposed to allow tax exemption to employees even at the time of partial withdrawal from NPS account.

Withholding compliances by individuals on rent payments

- The Finance Bill proposes that individuals responsible for paying rent to a resident would be required to withhold tax at 5% on rent if such rent exceeds INR 0.05 million per month or part of month.
- Further, the following are proposed to reduce the compliance burden:
  - Tax would be withheld only once a fiscal year i.e. from last month of the fiscal year or tenancy.
  - Relaxation from requirement to obtain a Tax deduction Account Number (TAN) by such individual.

Such provision will result into additional tax compliances for individual taxpayers.

Revised timelines for tax returns and assessments

To have better tax compliances, the timelines for filing India tax return and assessment by tax authorities are proposed to be amended as under:

Particulars	Existing provisions	Proposed amendments
Revised tax return (i.e. amended tax return)	Up to 2 years from end of fiscal year **or** completion of assessment, whichever is earlier	Up to 1 year from end of fiscal year **or** completion of assessment, whichever is earlier
Belated tax return (i.e. filed beyond due date)	Up to 1 year from end of fiscal year **or** completion of assessment, whichever is earlier	No change
Time limit for completion of tax return assessment by tax authorities	21 months for any fiscal year	– Fiscal year 2017-18: 18 months – Fiscal year 2018-19 and onwards: 12 months

Further, the fee for delayed filing of tax return has been proposed as below:

Total income	Proposed fees
Up to INR 0.5 million	Filing of tax return beyond the due date: INR 1,000
INR 0.5 million and above	– Filing of tax return up to 31 December following the relevant fiscal year: INR 5,000 – Filing of tax return after 31 December following the relevant fiscal year: INR 10,000

Cashless economy

In a move towards a cashless economy, the Finance Bill has introduced several measures to discourage cash transactions and curb black money. Some of the relevant ones are mentioned below:

- **Deduction for cash donation**
  Maximum deduction for cash donation is proposed to be restricted to INR 2,000 from existing threshold of INR 10,000.
- **Restriction on cash transactions**
  Receipt of cash amounting to INR 0.3 million or more shall be subject to penalty equalling cash receipts received under below circumstances:
  - In aggregate from a person in a day;
  - In respect of a single transaction; or
  - In respect of transactions relating to one event or occasion from a person.

The above provisions are subject to certain exceptions.

BDO comment

- *While there are lesser tax sops offered to individual taxpayers in the Union Budget, the proposals are intended at taxpayers being more tax compliant and adopting a cashless economy.*
- *Employers and employees are suggested to familiarise themselves with these proposed provisions to comply with the new requirements of law.*

JIGER SAIYA
jigersaiya@bdo.in

DEEPASHREE SHETTY
deepashreeshetty@bdo.in

IRELAND

SIGNIFICANT CHANGES TO IRISH PAYROLL OBLIGATIONS ON NON-IRISH EMPLOYMENTS EXERCISED IN IRELAND

The Irish Revenue released an e-brief on 22 December 2016 setting out a number of updates to Statement of Practice (IT/3/07), entitled *Pay As You Earn (PAYE) system – Employee payroll tax deductions in relation to non-Irish employments exercised in the State*.

The most significant amendment to this Statement of Practice is the publication of the Revenue's interpretation of Article 15 (the Employment Article) of the OECD Model Tax Convention on Income and Capital in the context of temporary assignees and short term business travellers.

The amendments to the Statement of Practice will now significantly limit the circumstances in which foreign employers can apply for an exemption from Irish payroll tax. In fact, this new approach by the Revenue will bring a significant majority, who spend more than 30 workdays in Ireland in a tax year, within the scope of Irish tax.

Key change – Article 15 interpretation

Prior to the publication of this e-brief, where an employee of a non-Irish employer performed duties in Ireland, but was present in Ireland for less than 183 days, it may have been possible to claim income tax relief where certain additional conditions were met.

One of these conditions was that the remuneration of the temporary assignee was paid by, or on behalf of, an employer who was not a resident of Ireland. In effect, a foreign employment.

Historically, the Revenue had treated a foreign employment as one where the employee was legally employed and physically paid by a non-Irish company, provided that company did not have a taxable corporate presence, such as a branch, in Ireland.

The Revenue has now significantly revised this position and are no longer prepared to accept, for the purposes of granting a release from the obligation to operate the PAYE system, that the remuneration is paid by, or on behalf of, a foreign employer if the individual is:

- Working for an Irish employer where the duties performed by the individual are an integral part of the business activities of the Irish employer; or
- Replacing a member of staff of an Irish employer; or
- Gaining experience working for an Irish employer; or
- Supplied and paid by an agency (or other entity) outside the State to work for an Irish employer.

In addition, the release from the obligation to operate the PAYE system will not be granted:

(i) Simply because the remuneration is paid by a foreign employer and charged in the accounts of a foreign employer; or

(ii) Where the remuneration is paid by a foreign employer and the cost is then re-charged to an Irish employer.

It should be noted that the Revenue has confirmed that the existing exemption for non-operation of the PAYE system for non-resident employees performing incidental duties in Ireland for no more than 30 days in aggregate in a tax year will remain in place. This exemption will apply for business travellers from both DTA and non-DTA countries.

Summary

In recent times, we have found the Revenue's approach to the application of the Statement of Practice to be inconsistent. While it could be argued that this updated position should theoretically address this issue, the consequences of this approach may significantly increase the compliance obligations and the costs of these assignments for the foreign employer.

Given the subjective language being used by the Revenue – 'integral part of the business activities', 'gaining experience' – and the lack of any guidance on these terms, it is difficult to envisage scenarios in which an Irish PAYE Clearance will be granted to a foreign employer once duties are performed for an Irish company.

BDO comment

We strongly recommend that non-resident employers (in conjunction with associated Irish businesses) should now review their current and proposed temporary assignments to Ireland to ensure there are sufficient controls and procedures in place to manage their Irish PAYE obligations.

MARK HYNES
mhynes@bdo.ie

SHARLENE FORKAN
sforkan@bdo.ie

THE NETHERLANDS

UPDATE REGARDING THE DUTCH 30% REGULATION

There are ongoing discussions regarding the 30% ruling that have commenced in the Dutch Parliament. This discussion has started as a result of a report issued in May 2016 by the '*Algemene Rekenkamer*', which functions as a quasi internal financial audit entity for the Dutch government/ parliament. The '*Algemene Rekenkamer*' has calculated that the annual costs associated with the 30% ruling amount to nearly EUR 700 million and stated that it is unclear what the justification is for the 30% tax free allowance and whether it meets its objectives. The report also questioned whether the 30% ruling results in certain adverse effects (such as making Dutch employees less attractive than employees hired from abroad). There are elections that will take place on 15th March this year in the Netherlands. Some Dutch political parties have expressed the wish to abolish or reduce/amend the benefits of the 30% ruling.

Based on the report of the '*Algemene Rekenkamer*', the Dutch Ministry of Economic Affairs has requested for an independent study into the effects of the 30% ruling. The study will be conducted by both Erasmus University Rotterdam and the Netherlands Foreign Investment Agency (part of the Ministry of Economic Affairs).

The goal of the study that will be conducted by Erasmus University Rotterdam is to examine all of these questions raised by the report of the '*Algemene Rekenkamer*'. For that reason, the Erasmus University Rotterdam has reached out to the Dutch Order of Tax Advisors, of which BDO is also a prominent member, to ask their clients if they are willing to participate in this independent (and anonymous) study on the effects of the 30% ruling.

BDO comment

If we have not yet reached out to you to participate in this study, and you feel you would be able to make a contribution, please do contact:

ROBIN SCHALEKAMP
robin.schalekamp@bdo.nl

FREDERIEKE DEN HARTOG
frederieke.den.hartog@bdo.nl

ROMANIA

REMOVAL OF MANDATORY SOCIAL SECURITY CONTRIBUTIONS THRESHOLDS

Commencing with the salary income derived for February 2017, the majority of the social security contributions thresholds will be removed. As such, the thresholds applicable for employee pension contribution (10.5%), employee health insurance contribution (5.5%) and employer pension contribution (15.8% for normal working conditions) have been eliminated.

Previously, the taxable basis thresholds for employee pension and health insurance contributions were set at five times average salary. For the period January 2016 to January 2017, the taxable basis was capped at 5 x RON 2,681 = RON 13,405 (approx. EUR 3,000), which resulted in monthly social security liabilities of:

- RON 737 for health insurance contributions (approx. EUR 165); and
- RON 1,408 for pension contribution (approx. EUR 315).

Similarly, for the period January 2016 to January 2017, the taxable basis threshold for employer pension contributions was set at 5 x average salary x number of employees (RON 13,405 x number of employees).

As such, only the employer medical leave contribution (0.85%) threshold will remain applicable as of February 2017, which is set at 12 x minimum salary x number of employees. The minimum salary applicable as of February 2017 is set at RON 1,450 (approx. EUR 325), resulting in a monthly threshold of EUR 3,900 x number of employees.

This change shall negatively affect the net salary of employees of Romanian companies, the employment cost of Romanian companies and the net salary and employment cost of posted workers and their employers, if the posted workers are subject to the Romanian mandatory social security system.

BDO comment

In light of the above, it is a good time for companies to review their remuneration policy in order to limit the financial impact of these legislative changes.

NEW PROVISIONS REGARDING HEALTH INSURANCE CONTRIBUTION EXEMPTION FOR INDIVIDUALS WHO ARE SUBJECT TO THE SOCIAL SECURITY LEGISLATION OF ANOTHER COUNTRY

Based on the provisions of a new Order issued by the Romanian Tax Authorities, individuals who hold health and maternity insurance in the social security system of another Member State of the European Union, European Economic Area and the Swiss Confederation or in countries with which Romania concluded bilateral social security agreements not liable to pay Romanian mandatory health insurance contributions on income derived from Romania. This is provided they prove the validity of the home country insurance. In order for the exemption to apply, the individuals have to submit the relevant Form (603) together with justifying documentation (e.g. A1 certificate/certificate of coverage).

Moreover, in order to benefit from the exemption individuals who obtain income for which health insurance contributions are withheld at source have the obligation to provide the payer of the income with a self-statement acknowledging that they are subject to the mandatory social security legislation of another relevant country along with supporting documents (e.g. A1 certificate/ certificate attesting the applicable legislation).

In Romania, health insurance contributions are due on the following types of income:

- Salary income and other income assimilated to salary (e.g. director fees);
- Pension income;
- Rental income;
- Income from freelancing activities;
- Income from the transfer of intellectual property rights;
- Investment income (e.g. interest, dividend, capital gains);
- Income from agriculture, forestry and fishery;
- Income from other sources.

Lastly, please note that the new Order does not provide a deadline for filing the 603 Form.

BDO comment

Although there is no deadline for submitting the application for exemption, it is advisable to file the form before the tax assessment is imposed as, in Romania, it might be difficult to overturn an imposed tax assessment.

CLAUDIU IONITA
claudiu.ionita@bdo.ro

SWEDEN

EXTENSION OF SWEDISH WORK PERMITS

In accordance with Swedish migration law, in order to qualify for a work permit the terms for the conditions of employment need to be the same or better than union agreements and the salary needs to be enough in accordance with Swedish standards to be able to live in Sweden, etc.

The Swedish Migrations Agency is currently rejecting many applications for the extension of work permits in Sweden due to the fact that all the terms in regards to the original application have not been fulfilled (the main terms not being fulfilled are those referring to salary and/or insurance).

The issue at the moment with extension applications tends to be that all insurances required have not been in place during the entire employment period or that the salary, come the end of the permit period, does not meet the reported amounts presented in the original application. Even in the cases where the errors appear to be an honest mistake and the employer is willing to correct the mistakes made, the Swedish Migration Agency is in general rejecting these application and not accepting any retroactive corrections.

There is however a proposal for new legislation where retroactive corrections are granted but only if the employer corrects the errors before they are noticed by the Swedish Migrations Agency. Further information will follow when/if the proposal is accepted.

BDO comment

It is vital that salary and insurance requirements are met otherwise it is likely applications for a work permit extension will be rejected. In anticipation of the new legislation it would be prudent for you to check the current position for your workforce and make any corrections required as soon as possible.

JESSICA OTTERSAL
jessica.otterstal@bdo.se

UNITED KINGDOM

QUALIFYING RECOGNISED OVERSEAS PENSION SCHEMES (QROPS) – CHARGE ON TRANSFERS

Confirmed during the Budget, this measure ensures that transfers to QROPS requested on or after 9 March 2017 will be taxable unless, from the point of transfer, both the individual and the pension savings are in the same country, both are within the European Economic Area (EEA) or the QROPS is provided by the individual's employer.

If this is not the case, there will be a 25% tax charge on the transfer and the tax charge will be deducted before the transfer by the scheme administrator or scheme manager of the pension scheme making the transfer.

It also widens the scope of United Kingdom taxing provisions so that, following a transfer to a QROPS on or after 6 April 2017, they apply to payments out of those transferred funds in the five tax years following the transfer.

HMRC CONTINUES THEIR CLAMP DOWN ON OFFSHORE ACTIVITIES

For those of us who already take an interest in the latest in the world of United Kingdom tax, it comes as no surprise that HMRC continues to focus on individuals using offshore structures to limit their exposure to United Kingdom tax. This focus has already yielded significant tax revenues for the Exchequer and remains a political hot topic.

In this continuing drive to clamp down on 'offshoring', HMRC is looking at new ways to gather the information they need to identify those using tax avoidance schemes. They are turning to advisors and sending out notices of requests for information on their clients. This is drawing in both the legal and accountancy profession amongst others with the Law Society looking to protect their right to privilege. HMRC's stance is that the information being requested is not privileged as it does not include advice provided to clients. This is being disputed by the Law Society who are relying on well established House of Lords authority that right to privilege actually covers all communications between a solicitor and their client. It is possible that this matter will need to be settled by the courts.

BDO comment

Clamping down on offshore activities will continue to be high on the Government's agenda. HMRC will continue to look for new ways to obtain information to help them in this cause and increased scrutiny of both professionals and individuals involved in this area will continue.

ANDREW BAILEY
andrew.bailey@bdo.co.uk

UNITED STATES OF AMERICA

THE POSSIBLE EFFECTS OF THE 2017 TAX REFORM ON GLOBAL MOBILITY PROGRAMMES – A HIDDEN SURPRISE FOR MULTINATIONAL COMPANIES

As a decision maker in a multinational organisation responsible for deploying employees around the world, you may have been wondering how the proposed tax reform under the Trump administration and current GOP Congress will affect your bottom line. The prospect of lower individual tax rates may, on the surface, seem to be favourable when implementing a tax reimbursement policy for a sizable global mobility programme; however, you may be in for a few surprises.

New President, new Congress, the likelihood of tax policy change is very high. Indeed there are many proposals to reduce income tax rates on both individuals and their employers. The proposal to reduce individual income tax brackets to three and setting the highest marginal rate at either 25% or 33% seems moments away. Even though the reduced rates are also expected to be coupled with limitations on itemised deductions and the like, we are all anxious for news to plan mobility policy impacts.

How might the reduction in tax rates affect global mobility policy and assignees?

Outbound US assignees tax equalised

The reduction of individual income tax rates in the United States is likely to increase the employer's costs especially at the middle management level. This is due to the fact that tax equalised assignees would be required to pay less hypothetical tax which is used to offset the company's tax costs. The potential increase in cost will also be dependent on host country tax rates:

- **High tax host location**
  An assignee in a host country, like the United Kingdom for example, with a highest marginal tax rate greater than 25 or 33% is going to cost more. The company commits to paying the host country tax under equalisation but will only be able to collect a fraction of that from the assignee as United States hypothetical tax … and that fraction is decreasing. This in turn leaves more foreign tax credits on the table to carryover and the amount of foreign tax credits that are potentially unusable in the United States will increase under the proposed tax reform. Unused foreign tax credits are to be carried forward for 10 years but may never be used.
- **Low/no tax host location**
  An assignee in a low or no tax host country, one where the highest marginal rate is not greater than the proposed 25 or 33% may also cost more in some cases. Foreign tax credits will be used, but there will likely be a residual United States tax cost and given the additional assignment benefits such as housing, school fees and other benefits, the reduced hypo tax collection will likely leave a balance for the employer to pay on behalf of the employee in the United States, where before there may have been none. However, as we see in the higher income situations, the Trump proposed tax savings become greater.

Outbound US assignees tax protected

A tax protected assignee in a high tax country will again create greater tax reimbursement and gross-up costs for an employer. The low tax country protection may seem like a windfall for the employer because the employee pockets the lower tax cost, but don't forget that employees tend to miss the connection between the lower tax costs in the foreign country and the higher cost in the United States When it comes time to pay at filing in the United States protected assignees may not have the additional funds to pay the additional tax cost that may be due in the United States.

US inbound assignees tax protected

This is best of both worlds. Whether from a high tax or low tax country, under the proposed tax reform, a foreign national working and paying United States and state income tax should have a reduced tax burden. The employer in turn gets reduced tax reimbursement costs on protected assignment related benefits and allowances.

Effects of Trump Proposed Tax Administration	High Tax Country		Low/no tax country	
	USD 125K base	USD 425K base	USD 125K base	USD 425K base
Company Cost Increase	USD 1,400	USD 4,950	USD 1,000	(USD 5,650)
Individual Tax Savings	USD 1,400	USD 4,950	USD 1,400	USD 4,950

Tax estimates based on Married Filing Joint rates, 2 exemptions and standard deduction for both current tax and Trump tax. The Trump tax rate schedule assumed: 12% tax on Taxable Income (TI) up to USD 75,900; 25% on TI up to USD 233,350; and 33% on TI over USD 233,350.

Unexpected mobility side effects

There two noteworthy side effects from the proposed tax reform:

- **Corporate tax deduction value**
  Corporate tax rates are also proposed to be reduced from 35% to either 15% or 20%. The reduced corporate tax rate means that deductions have lower corporate tax value so while assignee tax reimbursement costs for the employer may increase the corporate tax deduction value for the employer decreases.
- **United States becomes a tax haven**
  What has made corporate tax structures outside the United States so successful for global multinational organisations is the opportunity to reorganise where the corporation can take advantage of lower corporate tax rates in countries like Ireland or Luxemburg. If the United States corporate tax rate is reduced to the proposed 15% rate, the incentive to organise and structure United States corporate businesses outside the United States is significantly reduced making the United States now a tax haven country. With an equal playing field, non-United States businesses may consider setting up United States corporate structures to take advantage of the opportunity to access United States markets. This may likely translate into an increase in foreign national inbound transferees to the United States.

BDO comment

Tax reform does seem to be a high priority for the new administration and Congress. Even though there have been very few details provided and no hard timeline for implementation, we all seem to be anxiously waiting for news. Corporations, unlike individuals, don't need visas to relocate around the world to take advantage of tax opportunities. With an open-for-business climate, the United States should become a very tax competitive place to invest and work. Coupled with other attributes such as an indestructible commitment to property protection and rights, the U.S. will likely become the destination of choice for global assignees in the near future.

DONNA CHAMBERLAIN
dchamberlain@bdo.com

CURRENCY COMPARISON TABLE

The table below shows comparative exchange rates against the euro and the US dollar for the currencies mentioned in this issue, as at 17 March 2017.

Currency unit	Value in euros (EUR)	Value in US dollars (USD)
Euro (EUR)	1.00000	1.07303
Hong Kong Dollar (HKD)	0.12001	0.12879
Indian Rupee (INR)	0.01425	0.01529
Romanian New Lei (RON)	0.21956	0.23562
United States Dollar (USD)	0.93183	1.00000

CONTACT PERSONS

The BDO Expatriate Services Centre of Excellence consists of the following persons:

Kumar Krishnasamy	Australia	kumar.krishnasamy@bdo.com.au
Peter Wuyts	Belgium	peter.wuyts@bdo.be
Cleiton de Santos Felipe	Brazil	cleiton.felipe@bdobrazil.com.br
Debra Moses	Canada	dmoses@bdo.ca
Jacques Saint-Jalmes	France	jsaintjalmes@djp-avocats-bdo.fr
Christiane Anger	Germany	christiane.anger@bdo-awt.de
Wolfgang Kloster	Germany	wolfgang.kloster@bdo.de
Jiger Saiya	India	jigersaiya@bdo.in
Gianluca Marini	Italy	gianluca.marini@bdo.it
Joelle Lyaudet	Luxembourg	joelle.lyaudet@bdo.lu
Robin Schalekamp	Netherlands	robin.schalekamp@bdo.nl
Shohana Mohan	South Africa	smohan@bdo.co.za
Pilar Espinosa	Spain	pilar.espinosa@bdo.es
Jessica Otterstål	Sweden	jessica.otterstal@bdo.se
Andrew Bailey (Chair)	United Kingdom	andrew.bailey@bdo.co.uk
David Gardner	United Kingdom	david.gardner@bdo.co.uk
Donna Chamberlain	United States	dchamberlain@bdo.com
Mesa Hodson	United States	mhodson@bdo.com
Jessica Pancamo	United States	jschuster@bdo.com
Ronni Rizzo	United States	rrizzo@bdo.com

1703-04