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Expat news

Recent changes and laws effecting internationally mobile employees

Welcome to the latest edition of Grant Thornton's Expat news. The articles in this issue discuss recent changes and laws made by some governments and revenue authorities, some of which may be beneficial to internationally mobile employees and others that may not.

To find out more about the topics featured in Expat news do not hesitate to get in touch with members of our Expatriate tax team. Their contact details are included on the last page of this newsletter.

For further information our Expatriate tax ebook has been designed to provide an overview of the different tax systems around the globe. Visit **www.gti.org** to find out more.

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Belgium

Increased social security exemption for foreign executives

Increased social security exemption for foreign executives

The Belgian social security authorities have recently adapted the computation method of social security exempted allowances, attributed to foreign executives that benefit from a special tax status.

Before the change, these allowances (when calculated according to the 'technical note', ie a calculation method prescribed by the tax administration), were exempt from Belgian social security up to a maximum amount of €11,250 (or €29,750 for executives employed in a coordination or control centre or for scientific researchers).

As of the 2012 income year, the allowances exempt from social security are to be increased with the so-called travel exclusion percentage (ie the percentage of time spent outside of Belgium for professional purposes) with an absolute maximum of €29,750. It is to be noted that this increased social security exemption is only applicable to the executives benefiting from the special tax status whose maximum exempted amount for taxes is €11,250. Consequently the executives benefiting from the increased amount of tax free allowances up to €29,750 are not eligible.

Example

The allowances of the foreign executive benefiting from the special tax status further to the computation according to the 'technical note' amount to €10,250.

Travel exclusion percentage	Exempted amount (old)	New exempted amount (1)	Estimated saving employer (2)
20%	€10,250.00	€12,812.50	€896,88
40%	€10,250.00	€17,083.34	€2,391.67
60%	€10,250.00	€25,625.00	€5,381.25
80%	€10,250.00	€29,750.00	€6,825.00

(1) (€10,250/80) x 100 = €12,812.50

(2) €12,812.50 - €10,250 = €2,562.50 x 35% (employer's social security contribution) = €896.88

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Germany

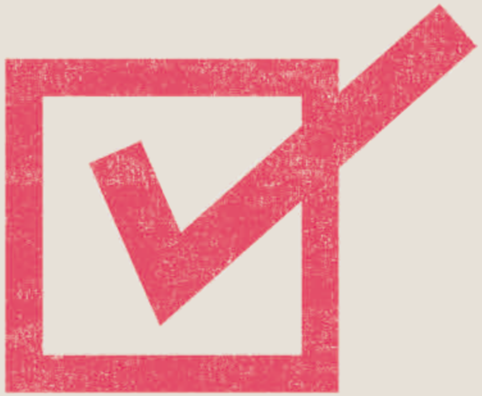
More than just a new tax form – enclosure 'N AUS' added to the German income tax return for internationally mobile employees

For the 2011 tax year, the German Ministry of Finance issued a new mandatory form called enclosure 'N-AUS' (the enclosure), that needs to be filed with every German income tax return showing foreign employment income where either a tax exemption or a foreign tax credit is applied in Germany. A separate enclosure has to be filed for every foreign state in which the employment income is subject to income tax.

This article includes experiences of working with the enclosure a year after its introduction by the German tax authorities.

With the new enclosure in place from 2011, the amount of information as well as the level of detail which needs to be reported for internationally mobile employees is increasing significantly. Additionally the number of further queries from the tax authorities has also increased.

In the official enclosure instructions the tax office points out the increased duty of the taxpayer in Germany (according to '§ 90 (2) German Fiscal Code') to cooperate in relation to cross border matters: eg written confirmations of the overseas work issued by the employer and proof of taxation on the foreign employment income have to be completed and attached to the filed form.



This article includes experiences of working with the enclosure a year after its introduction by the German tax authorities.

In particular the following information has to be filled in:

- **the individual's resident addresses outside Germany have to be named** – This data is interesting for the German tax office for the delivery of German administrative acts after the employee has abandoned his domicile in Germany and no tax representative in Germany is appointed
- **the centre of vital interests needs to be stated in the enclosure** – The determination of the centre of vital interests can be a rather complex issue and requires a good documentation basis
- **the address of the formal and economic employer needs to be provided**
- **it has to be stated on which legal base a tax exemption is applied** – Double Taxation Agreement (DTA), German decree on employment abroad or intergovernmental convention
- **detailed information about the employee's activities including time periods** – Not only the days being present in the other state but also the days worked have to be declared in the new form
- **a detailed salary breakdown including an allocation of the income** – The most important and extensive part of the new form
- **a breakdown and allocation of the income-related expenses in relation to the foreign income.**

Enclosure 'N AUS' added to the German income tax return for internationally mobile employees

In the past, the respective information was declared in four boxes (two lines with two boxes each), whereas the new form has 92 boxes in 82 lines. As a consequence, a lot of new data needs to be collected, processed and declared. Although the data that needs to be reported on the enclosure was also required to prepare a German income tax return for an internationally mobile employee in the past, the level of detail has greatly increased.

For tax years prior to 2010 some of the data did not have to be declared, some information only had to be provided in an equation or as the result of a non-disclosed calculation. As all data is now required by the tax authorities and non-compliance has criminal law implications, it can be noted that the reporting requirements for internationally mobile employees have significantly tightened.

This new level of information will also facilitate the data transfer between the German and the foreign tax authorities. Consequently, in the enclosure (above line 35) a note is given, that under certain circumstances the tax exempted amount in Germany will be communicated to the foreign tax office.

We conclude that the new wealth of information, provided to the German tax office, leads to extensive written inquiries from the German tax authorities when they assess the income tax returns. Furthermore we assume that the data transfer between the German and the foreign tax authorities will increase greatly. It remains to be seen how the new form will change daily work.

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Ireland

Ireland is continuing to promote both inward and outward investment by extending current incentives, and focusing on employment initiatives

Promoting investment in Ireland

Ireland is continuing to promote both inward and outward investment by extending current incentives, and focusing on employment initiatives, two of which are outlined below. This article also highlights some of the topical Irish tax issues facing individuals and companies in 2013.

Employment incentives

Research and Development (R&D) tax credit

A favourable R&D tax regime exists in Ireland for companies carrying on qualifying R&D activities within the European Economic Area (EEA). From an employment incentive perspective, companies in receipt of the R&D tax credit now have an option to use a portion of the credit to reward key employees who have been involved in R&D activities.

The effective income tax rate for such key employees may be reduced to a minimum of 23%. Prior to 2013, these employees had to perform 75% of their activities on specific R&D and 75% of their emoluments had to qualify for the R&D tax credit. The Finance Act 2013 (the Act) has now relaxed the 75% threshold to 50%, allowing companies greater flexibility in utilising the R&D tax credit in attracting and retaining key R&D employees. It should be noted that the employee cannot be a director nor have a material interest (being 5%) in the company.

The employee must make a claim to the revenue authority for the refund of tax arising as a result of the R&D tax credit allocated to them. It is critical to note that the quantum of the credit that can be surrendered to key employees is capped at the corporation tax liability of the company prior to taking into account their total R&D tax credit.

Foreign Earnings Deduction (FED)

The Act has extended the countries to which FED applies to include: Algeria, Congo, Egypt, Ghana, Kenya, Nigeria, Senegal and Tanzania. Further details in relation to the operation of this relief were included in the June 2012 newsletter.

Topical Irish tax issues

Directors' fees

The Irish Revenue Commissioners are actively pursuing the Irish payroll liabilities arising on directors' fees following the release of an e-brief released by the revenue authority on this matter in 2011. Prior to the e-brief, it was common practice for directors in certain industries to invoice for their services personally or through a corporate entity. This briefing was used by the revenue as an opportunity to confirm their view of the position regarding the payroll obligations for directors' fees/salaries.

Under Irish tax legislation, a director is an office holder and an employer must operate payroll taxes on any remuneration or benefits received from an 'office' with an Irish company. The charge to Irish income tax applies irrespective of the tax residence of directors and most DTAs will not override this position. The obligation to withhold payroll taxes which includes income tax, social security (unless an A1 certificate/certificate of coverage is in place) and the Universal Social Charge (USC) rests with the employer.

The Irish Revenue Commissioners in the first instance are making sure that payroll taxes are being applied to payments made in the current year, but are also looking for settlements for prior years, where there has been non-compliance. Their current focus is on the funds industry in Ireland but they are expected to widen their net in the coming year.

Local Property Tax (LPT)

The LPT is effective from 1 May 2013. A half year payment will be due in July 2013, with a full year payment due in 2014. Residential property owners will be liable for the LPT based on the self-assessed market value of their property on 1 May 2013, this valuation will be used for the three years up to and including 2016.

There are specific exemptions for certain properties. Where a property is valued at €1,000,000 or lower, tax will apply at a rate of 0.18%. For properties valued at over €1,000,000 the tax will be calculated at a rate of 0.18% up to €1,000,000 and 0.25% on the excess over €1,000,000.

Key dates	
March/April 2013	Revenue issue LPT return form and detailed guidance information to liable residential property owners.
1 May 2013	Property valuation and property ownership date.
7 May 2013	Due date for filing paper LPT returns.
28 May 2013	Due date for filing LPT returns electronically.
1 July 2013	Commencement of phased payments such as direct debit, deduction at source from salary/occupational pension or certain payments from the Department of Social Protection and Department of Agriculture, Food and the Marine and cash payments through certain service providers.
21 July 2013	Bank Single Debit Authority Payment deducted.

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Italy

Advantageous tax incentives for Italians and EU nationals working in Italy

Italian and foreign companies having a Permanent Establishment (PE) in Italy, willing to offer 'attractive' remuneration packages (for tax purposes) to workers returning/coming to work in Italy from abroad, can now apply for an important tax incentive.

Law n. 238/2010 (the law), and subsequent modifications, have provoked a great interest from the outset with Italian companies/PEs in Italy which intend to hire employees, and in the EU for citizens that intend to carry out or start a self-employment or business activity in Italy.

The appeal of the rule is easy to understand, given that the worker will benefit from a reduction of taxable income, equal to 70% of the income produced in Italy for men and 80% for women, until fiscal year 2015.

According to the law, the tax benefit is provided for those skilled Italian or EU individuals who, after having worked or studied abroad for at least two years, come back to Italy to live and work.

In order to benefit from this tax rule, the individual has to meet the following requirements:

- born after 1 January 1969
- hold a university degree
- past resident in Italy for a continuous period of at least 24 months
- carried out a work activity outside Italy for a continuous period of at least 24 months.

> Tax incentives for Italians and EU nationals working in Italy

The individuals that can benefit from this tax regime, are those returning or transferring their domicile and residence back to Italy within three months from the start of their employment (or self-employment or business activity) in Italy. The benefit cannot be applicable to the calculation of the social security contributions.

To apply for the tax benefit, the law has introduced additional facilitation for those workers who fulfil the conditions:

- the government engages to enter into bilateral agreements with the worker's foreign states, in order to recognise the right of social security contributions' aggregation paid abroad with those paid to pension funds in Italy (under EC Regulation n. 883/2004 a worker is subject to the social security legislation of the state in which they perform the work activities, so-called principle of lex loci laboris)
- Italian regions could reserve part of the public housing allocated for public enjoyment or allocated for residential purposes, for at least 24 months.

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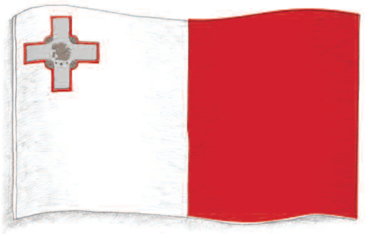
Malta



Taking up residence in Malta

Malta has introduced special tax status regimes for high net worth individuals and highly qualified individuals. Different conditions apply and qualification for one is exclusive of the other.

Basis of personal taxation – persons who are both ordinarily resident and domiciled in Malta are taxed on their worldwide income and capital gains.

However, persons who are ordinarily resident but not domiciled in Malta are taxed at progressive rates up to a 35% marginal tax rate on income arising in/from Malta and on foreign income remitted to Malta (subject to double taxation relief) but are subject to the following tax treatment:

- 0% on capital gains from the sale of owner occupied Maltese primary residence (applicable conditions include three year ownership and residents in the property)
- 12% final withholding tax on the transfer value of other immovable property situated in Malta
- 35% (maximum) tax on gains arising on assets situated in Malta
- 0% on foreign capital gains even if remitted to Malta
- double taxation relief in respect of tax levied outside Malta, on any income remitted to Malta, which is subject to tax in Malta. Malta has a wide treaty network with almost 60 countries. Furthermore, when income is derived from a country with which Malta does not have a treaty, a domestic system of unilateral relief is available
- no annual estate taxes.

Maltese high net worth individuals scheme

The scheme essentially provides for a tax rate of 15% on certain income.

Persons qualifying for the special tax status in terms of the high net worth individuals rules will be deemed tax resident in Malta but not ordinarily resident nor domiciled in Malta, and hence are not taxed on a worldwide basis.

To qualify for the special tax status, an application in the prescribed format is to be submitted together with a completed questionnaire and ancillary supporting documentation. A non-refundable fee of €6,000 applies for every application submitted, to cover the fees incurred through a sub-contracted international firm to run international 'fit and proper' background checks. Applications will need to be submitted by Maltese warrant holders registered with the Inland Revenue Department as authorised mandatories.

Individuals qualifying for the special tax status are entitled to reside in Malta together with family members and their dependants, subject to certain conditions outlined below:

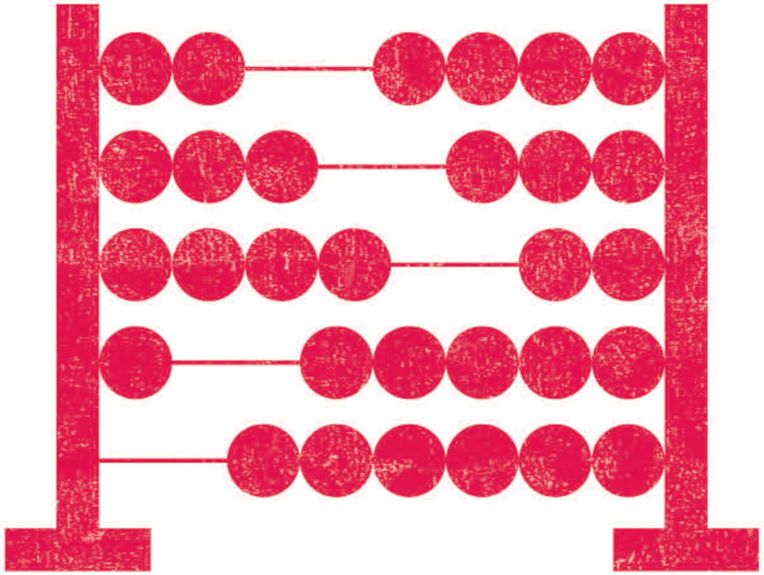
- **property** – applicants shall either acquire for own use (including dependants) a personal residence in Malta of not less than €400,000, or rent residential property in Malta for not less than €20,000 per annum subject to an inflation index
- **resources** – stable and regular resources that are sufficient to maintain themselves and their dependents without recourse to the social assistance system in Malta
- **sickness insurance** – recognised across the European Union (EU) in respect of all risks normally covered for Maltese nationals for themselves and their dependants
- **domicile** – applicant and their dependents shall never become domiciled in Malta nor citizens of Malta
- **residency** – applicant shall not stay in any other jurisdiction for more than 183 days in a calendar year. A declaration to this effect shall be made in the annual tax return
- **nationality** – non EU/non-EEA/non-Swiss applicants are furthermore required to leave Malta for a minimum period of three months in every calendar year unless the applicant declares that they intend to become a long-term resident of Malta and enter into an agreement, subject to a financial bond forfeitable in favour of the government of Malta, to effectively qualify for long term residence after five years (certain conditions apply).
- **fluency** – in both English and Maltese
- **fit and proper** – assessment is based on considerations of good conduct and morals, criminal record, bankruptcy issues and governmental investigations.

Tax treatment

- for EU, EEA and Swiss nationals, foreign income remitted to Malta is chargeable at the flat rate of 15% tax subject to a minimum annual amount of €20,000 (plus €2,500 for every dependant). For non-EU/EEA/Swiss nationals, €25,000 (plus €5,000 for every dependant) after double taxation relief
- no tax is chargeable on foreign capital gains even if remitted to Malta
- gains on the sale of owner occupied premises in Malta used as the primary residence and which have been owned and actually lived in for a period of three years are exempt from tax. A final withholding tax of 12% on the transfer value of immovable property situated in Malta is charged on the sale of any other property
- tax is chargeable at the flat rate of 35% on local income and gains realised on the transfer of other chargeable assets in Malta

> Malta has introduced special tax status regimes for high net worth individuals

- it is possible to engage in gainful employment and business activities in Malta. Such other chargeable income of the beneficiary (and spouse) that is not charged to tax at the rate mentioned above will be charged to tax at the rate of thirty-five cents (0.35) on every euro



- double taxation relief is available to those qualified for the special tax status in respect of tax levied outside Malta on any income remitted to Malta which is subject to tax in Malta. Malta has a wide treaty network with almost 60 countries and furthermore, when income is derived from a country with which Malta does not have a treaty, a domestic system of unilateral relief is available.

Maltese retirement programme – attracting expat pensioners

Malta has launched a generous tax incentive scheme to encourage European individuals to transfer their pensions to, and take up residence in Malta.

Under the scheme, which is exclusively available to EU, EEA, or Swiss nationals, income tax will be fixed at 15%, with a minimum tax liability of €7,500 per annum and €500 for each dependant. Double taxation relief is available via Malta's double taxation treaty network or unilateral relief provisions.

Certain conditions apply and, to be eligible for the scheme, applicants would need to:

- purchase a property worth at least €275,000 in Malta, or €250,000 in Gozo, alternatively they can rent a property for €9,600 per annum in Malta, or €8,750 in Gozo
- reside in Malta for at least 90 days per annum, averaged over any five year period
- not stay in any one other jurisdiction for more than 183 days in a calendar year
- have the entire pension (as defined) remitted and taxed in Malta, and the said pension income shall constitute at least 75% of the income chargeable to tax in Malta. The said pension income can be in the form of lifetime annuities, personal pension plans or occupational pension
- not be in an employment relationship (the rules do not preclude the beneficiary from holding a non-executive post in a company resident in Malta or from participating in activities related to an institution of a public character in Malta)
- be in possession of sickness insurance recognised across the EU.

Maltese highly qualified individuals scheme

Malta is working to attract foreign specialised executives in the financial services, gaming and aviation industries with a 15% flat personal tax rate on annual income from €75,000 to €5 million arising in the course of their employment in Malta. Annual income in excess of €5 million is exempt from tax in Malta.

Since joining the EU in 2004, Malta has been developing as a financial services domicile and is recognised as a highly functional, low cost, well regulated jurisdiction with the underlying theme being the availability of trained staff. However, the expansion of financial services in recent years is showing a significant need for additional highly qualified workers. The objective of 'Legal Notice 106.11' (highly qualified person rules) is to set out the rules in terms of which highly qualified non-Malta domiciled employees may benefit from a flat personal tax rate of 15% that is chargeable on their employment income (excluding the value of fringe benefits) whilst exempting annual income in excess of €5 million.

Those eligible for the 15% tax rate include foreign-domiciled chief executive officers, chief risk officers, chief financial officers, chief operations officers, chief technology officers, portfolio managers, chief investment officers, senior traders/traders, senior analysts (including structuring professionals), actuarial professionals, chief underwriting officers, chief insurance technical officers, marketing heads and investor relations heads. Individuals must be in possession of relevant professional qualifications or adequate professional experience relevant to the profession or sector specified in the work contract and employment must be with a company that is licensed and/or recognised by the Malta Financial Services Authority (FSA), Malta Gaming Authority or Transport Authority (aviation industry). The rules do not apply where the employer benefits from incentives granted in terms of the Malta Enterprise Act and the Business Promotion Act. The employee is to submit an application to the Malta FSA for a formal determination as to the eligibility to benefit under these rules.

The rules in general apply as from year of assessment 2012 but, in certain cases, it applies retrospectively from year of assessment 2011, for a consecutive period of five years for the EEA and Swiss nationals and for a consecutive period of four years for other country nationals. Individuals who already have a qualifying contract of employment two years before the entry into force of the scheme may benefit from the 15% tax rate for the remaining years of the scheme.

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Malta is working to attract foreign specialised executives

The main conditions are:

- employment income must exceed €75,000 (increased annually in line with the Retail Price Index). Annual income in excess of €5 million is tax free
- individual shall not be domiciled in Malta
- individual shall be employed in an eligible office
- individual shall be in possession of relevant professional qualifications or adequate professional experience which are relevant in the profession or sector specified in the work contract
- an obligation to declare all income including that paid by related parties for the purposes of employment
- employment must be with a company that is licensed and/or recognised by the Malta FSA, Malta Gaming Authority or Transport Authority (aviation industry)
- employer shall not be benefiting from incentives granted in terms of the Malta Enterprise Act and the Business Promotion Act.

The Netherlands

Immigration

As of 1 June 2013 a new legislation, 'The Modern Migration Policy Act' (Wet Modern Migratiebeleid or MOMI) has become law in the area of immigration.

Under this new legislation, many new immigrants will need to have a sponsor in the Netherlands and both parties will have statutory obligations. The main obligations will be to provide the government with correct information and to keep proper records.

Aside from the obligations, the new legislation also means that, from now on, sponsors can submit an application for a residence permit on behalf of the potential migrant.

A major advantage of this new legislation, is that the application procedure for entry into the Netherlands (the MVV-procedure) and the application procedure for a residence permit for a longer period of stay in the Netherlands is combined into a single procedure. As a result, migrants or their sponsor need only submit a single application.

Knowledge migrants – transitional rules

For employers that were already registered with the Immigration and Naturalisation Services (IND), the knowledge migrant ruling, will in principle automatically qualify them as sponsors. In this respect, if they made use of the ruling in the year prior to the implementation of the new legislation, employers can already make use of the single application procedure.

30%-ruling

Employees hired or assigned from abroad with specific skills and expertise that are scarce on the Dutch labour market may be eligible for the 30%-ruling. Under this ruling, the employee may in principle receive 30% of their salary in the form of a fixed tax free allowance for the additional cost of working abroad (so called extraterritorial costs).

As of 1 January 2013, a number of changes were introduced regarding the 30%-ruling, we have highlighted the most important changes:

New salary criteria for 2013

In order to qualify for the ruling, the following salary criteria must be met.

Category	Taxable salary	Including 30%-allowance	Further conditions
General	€35,770	€51,100	
Scientists/ researchers	n/a	n/a	Educational institutions/ subsidised research facilities
Medical specialists	n/a	n/a	Specific registration requirements
Young masters	€27,190	€38,842	Must be under the age of 30
Doctoral graduates (30 years or older)	€35,770	€51,100	If within 150km zone, must start work within one year of graduation
Doctoral graduates (under the age of 30)	€27,190	€38,842	If within 150km zone, must start work within one year of graduation

End date of the ruling and 'after payments'

The Dutch Supreme Court ruled that, the 30%-ruling can be applied to (variable) payments made to an employee relating to employment activities carried out in the Netherlands for which the employee was granted the 30%-ruling, but after their employment in the Netherlands had ended.

In order to prevent application of the 30%-ruling on such payments, the regulations have been adjusted. Under the new regulations the official end date of the 30%-ruling is the last date of the pay period following the end date of the employment. This means that 'after payments' should be made no later than a one month/period after the end date of employment in order for the 30%-ruling to apply. The 30%-ruling cannot be applied to variable payments (bonus, stock options etc.) made outside of this period.

As of 1 January 2013, the implementation of the measure implies that the court rulings can be followed until 1 January 2013. Also, based on the wording of the measure, there may still be room to argue that the court decisions are still applicable even after this date.

Returning expatriates and the 150 kilometre zone

Individuals are not eligible for the ruling if they spent a third or more of their time living within 150km of the Dutch border in the 24 months prior to being employed in the Netherlands. In the Dutch authorities' view, the Netherlands should also be included in this zone. This new regulation has a retroactive effect to 1 January 2012.

Example

A employee who worked in the Netherlands with a 30%-ruling and who left the Netherlands for one year and then returned to the Netherlands, was also confronted with this measure in the view of the Dutch tax authorities. This meant that the employee would no longer be eligible for the 30%-ruling upon return to the Netherlands.

Under the new regulations, the 150km zone was relaxed for certain cases. Employees that qualified for the ruling and left the Netherlands, may still be eligible for the ruling upon return to the Netherlands (even if they lived within 150km of the Dutch border), provided that the first employment in the Netherlands did not start more than eight years before their new employment and they were originally hired from outside of the 150 km zone.

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Poland

Travel expenses of directors are exempt from Polish tax

Travel expenses of directors are exempt from Polish tax

According to Polish law, salaries, wages and other remuneration received by employees are subject to taxation. This also includes all bonuses, perquisites and benefits in kind.

Therefore in general, where an employer provides their employees with, for example, transport from home to the place of work and back, the cost of this transport should be treated as personal taxable income received by the employees.

At the same time however, Polish tax authorities state that this would not be applicable where a company finances the cost eg flight tickets, taxi for the director etc, for a member of the Board in a Polish company where they are not bound by an employment contract. In other words, transport from home to the place of work and back financed by the company in favour of a person not being an employee is tax-free.

Why so?

There is a special regulation concerning travel expenses to be refunded by the company.

According to this regulation, travel and other related expenses reimbursed or financed by the company should be treated as taxable income of a traveller, but they might be tax exempt up to some limits, provided that:

- the expenses are connected with a business trip of an employee
- the expenses are connected with a trip of a person not being an employee.

As interpreted by the Polish tax authorities, travel expenses of an employee can be exempt from tax only if they are carried out during the business trip. This term is regulated in Polish law and many conditions must be met in order to classify a trip as a business one. Travelling from home to the company should not be treated as such so, if financed by the employer – could be treated as a benefit in kind and subject to taxation.

Nevertheless, all travel expenses carried in favour of a non-employee (eg a director, Board member, CEO, CFO etc) might be tax exempt. Polish tax authorities confirm that in a case where the company pays for the flights of Board members, their hotels and taxis (provided that beneficiaries are not working on the basis of an employment contract), there is no taxable income, if not exceeding limits.

The limits are mainly defined for meals and hotel costs – all the other costs must be proved with proper documents by the person travelling and then to be reimbursed by the company and tax exempt afterwards.

The current judicature and binding rulings issued by the Polish Minister of Finance are definitely favourable for the members of the Board of directors of Polish companies.

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Uruguay

Working in Uruguay – new benefits for expatriates

Working in Uruguay – new benefits for expatriates?

Pre arrival procedures

In order to start working in Uruguay, foreigners must comply with a number of administrative procedures that have been simplified over the last few years.

Historically, as a general rule, a foreign individual needed to obtain legal residence in Uruguay and a health certificate in order to be able to work. There are different kinds of legal residences depending on an individual's personal circumstances (ie mercosur resident, married to a Uruguayan individual, etc).

In any case, to obtain legal residence, certain documentation must be presented to the migration authorities (ie birth certificate, clean record document, etc.). However, foreigners can start working immediately, even while the authorisation is still pending. This procedure can only be started after the individual is in Uruguay and the whole procedure could take between four months and two years depending on the kind of legal residence for which the foreign individual applies.

Considering the increase in foreign investment in Uruguay, and the necessity of qualified workers for projects with a limited duration, a simpler procedure has been introduced under the name of 'Provisional Identity Sheet' (PIS). PIS is a permit to enter the country to work for a period of less than six months (in case the period is extended, the employee must apply for legal residence as described before).

Under this procedure the foreign individual could obtain the authorisation to work in Uruguay before arrival, and the whole procedure in this case will take no more than a month. To obtain the PIS, a company representative for which the foreign individual will be employed, will have to provide a note indicating the role, salary and activity that the individual will perform in the company. Once the documents are filed, the migrations office will issue a certificate that will be necessary to obtain the PIS from the offices of the National Direction of Civil Identification. The person must then show their birth certificate, legalised before the Uruguayan Consulate (or apostilled), therefore they must ensure that they are present in Uruguay approximately 20 days after requesting the PIS.

Social security international agreements – new countries under negotiation

Uruguay has taken a proactive approach to the international trend to protect the social security of those workers who render services abroad.

Although the agreements have a similar structure, they can differ with respect to the scope of the contributions covered and the regulation of the transference of employees between the contracting states, etc.

It is important to highlight that Uruguay have agreements in force with a number of countries including: Argentina, Austria, Belgium, Bolivia, Brazil, Canada (including Quebec), Chile, Colombia, Costa Rica, Ecuador, El Salvador, Greece, Israel, the Netherlands, Paraguay, Peru, Portugal, Spain, United States and Venezuela.

By virtue of the various existent agreements, the most relevant aspects they have are summarised as follows:

- years of service are accumulated in both countries
- the temporary transfer of employees between contracting states is allowed, maintaining the payment of social security contributions in the country of origin
- pension payments can be made between contracting states without withholdings.

Not all the agreements will include these benefits, and generally they are not for more than 12 months (this could be extended up to 24 months) and restricted to only professional workers in the technical or management area and scientists who render services in Uruguay for a limited time.

Currently, Uruguay is negotiating new agreements with Switzerland and Luxemburg.

Income tax – recently signed DTAs

Foreigners will be subject to income tax payments in Uruguay. The tax will differ depending on whether the foreign individual complies (or not) with the definition of having a fiscal residence.

A person is considered to be tax resident in Uruguay when they meet any of the following conditions:

- the person stays in the Uruguayan territory for over 183 days during a calendar year. Sporadic absences shall be taken into account unless the person provides evidence of tax residence in another country
- the direct or indirect economic activities or individual interests of the person are located in Uruguay.

It is also presumed that the individual has his residence in Uruguay if their partner and children depend on them having a permanent residence in Uruguay.

Income obtained by fiscal non-residents is taxed with Income Tax on Non-Residents (IRNR) and fiscal residents will be taxed with Personal Income Tax on Residents (IRPF).

For income from work in the case of IRPF, some deductions are allowed and the tax to be paid is calculated according to progressive rates, depending on annual incomes which vary from 0% to 30%. On the other hand, non-residents will pay at a 12% rate (deductions are not allowed).

However, in recent years Uruguay have signed several DTAs which include the Organisation for Economic Co-operation and Development (OECD) section regarding 'Income from employment'.

The OECD section establishes that salaries, wages and other similar remuneration derived by a resident of a contracting state, in respect of an employment, shall only be taxable in that state unless the employment is exercised in the other contracting state. If the employment is so exercised, such derived remuneration may be taxed in that other state.

Notwithstanding the above mentioned remuneration derived by a resident of a contracting state, tax will only be payable in respect of an employment in another contracting state if:

- the recipient is present in the other state for a period or periods not exceeding 183 days (in aggregate) in any 12 month period commencing or ending in the fiscal year concerned
- the remuneration is paid by, or on behalf of, an employer who is not a resident of the other state
- the remuneration is not from a permanent establishment that the employer has in the other state.

Currently, Uruguay have DTAs in force that include this clause (or a similar one) with Germany, Ecuador, Spain, Hungary, Liechtenstein, Malta, Mexico, Portugal and Switzerland.

DTAs that include this clause (or a similar one) have also been signed with South Korea, Finland and India, although these are not yet in force.

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