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EXPATRIATE NEWSLETTER

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IRELAND

IRISH PAYROLL TAX SYSTEM – TEMPORARY ASSIGNEES

Summary

New guidance from the Revenue in Ireland with regards to the Pay As You Earn applications for non-Irish employees. Non-resident employers (in conjunction with associated Irish businesses) will need to put in place robust processes in order to track current and proposed temporary assignments to Ireland to ensure their Irish PAYE obligations are being met.

The Irish Revenue have updated their guidance on the application of the Pay As You Earn (PAYE) system in relation to non-Irish employments exercised in the State.

The payroll tax position on assignments to Ireland is now dependent on the following:

- Whether the individual is resident in a country with which Ireland has a Double Taxation Agreement (DTA) or in a country with which we do not have a DTA (referred to as non-DTA countries);
- Whether a DTA resident's Irish workdays are more or less than 60 days in one tax year;
- Whether a DTA resident's Irish workdays are more or less than 60 days over two consecutive tax years;
- Whether a DTA resident has Irish workdays over more than two consecutive tax years.

If resident in a non-DTA country then the above 60-day threshold is reduced to 30 days.

The revised guidelines will provide major practical challenges for employers with regard to the tracking of short-term assignments.

Historically, employers had the safety net of the exemption for up to 60 workdays in one tax year for residents of DTA countries. The updated guidelines will require employers to track all visits to Ireland, irrespective of length, and to consider the payroll tax implications of the assignment on a standalone basis, a cumulative year's basis and a rotational basis.

Added to that, Ireland is moving to a Real Time Reporting system for payroll tax purposes, effective from 1 January 2019, and Revenue have indicated that there will be no special arrangements for foreign assignments albeit after a short transitional period.

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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.

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ISRAEL

COURT RULING – ALLOCATION OF ISRAELI TAXABLE INCOME TO A VETERAN RETURNING RESIDENT

Summary

When returning to Israel from working abroad or coming to Israel as a new arriver, sufficient evidence must be submitted to the Israeli Tax Ordinance in order to be granted tax relief for income or assets sourced outside of Israel.

On 22 January 2018, the Israeli District Court ruled in the matter of Mr Yehuda Talmi with respect to the application of the 10 year tax exemption stipulated in the Israeli Tax Ordinance (ITO). This is granted to new immigrants and veteran returning residents for a period of 10 years on all income generated or accrued outside of Israel, or sourced from assets outside of Israel.

Mr Talmi was a returning resident after a significant period of time outside Israel. In the tax returns submitted for the period 2007-2011, he requested the exemption be applied to his salary received from a UK company in which he worked before his return to Israel. The Individual noted that only 36.68% of his income was generated in Israel, based on a letter provided by his employer. Therefore, only this part should be subject to tax in Israel. Following an audit conducted by the Israeli Tax Authority (ITA), the Individual was issued an assessment stating that most of his work was performed in Israel with respect to services rendered to customers in Israel. Nevertheless, the ITA agreed to recognise part of his income as generated abroad and therefore exempt from tax, with the allocation made according to the number of business days in which the Individual was abroad in the tax year relative to the total business days in the tax year.

In his appeal, the Individual argued that no taxable income should be allocated to Israel with respect to his salary from the Company as a veteran returning resident entitled to a full tax exemption. Alternatively, the Individual argued that the taxable income allocated to Israel should be as reported in his tax returns supported by the letter from the Company or to add a significant 'multiplier' with respect to the days spent outside Israel.

The District Court rejected most of the appeal and ruled that while examining the Individual's income as 'produced or derived outside of Israel', a condition for recognising income derived from an 'asset' abroad as exempt from tax is that the taxpayer succeeded in proving that he indeed owned an 'asset' and that this asset is the source of the income. In this case, the court determined that the Individual did not meet the required burden of proof. In addition, the Individual failed to refute the findings presented by the ITA whereby his activity was carried out almost entirely in Israel.

Under these circumstances, The District Court ruled that there was no basis other than to adopt the 'objective method' used by the ITA, whereby the income should be allocated to Israel according to the number of business days spent in Israel.

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ITALY

NEW ITALIAN LEGISLATION ON CORPORATE WELFARE IN ORDER TO REDUCE THE TAX WEDGE

Summary

New legislation is coming into place in Italy with regards to corporate welfare to help reduce the difference between labour costs incurred by employers and net income earned by employees.

Italy is one of the industrialised countries with the highest tax wedge, i.e. the difference between the labour costs incurred by employers and the corresponding net income actually earned by employees.

According to a recent report by the Organisation for Economic Co-operation and Development (OECD), Italy ranks third among the OECD countries with the highest tax wedge. In 2017, taxes and social security contributions amounted to 47.7%, of which as much as 24% was the employers' share – this is the fourth highest percentage in all the 35 OECD countries following France (26%), Czech Republic (25.4%) and Estonia (25.3%), against an OECD average of 14.2%.

Recent tax policies aimed at reducing the tax wedge

The Italian lawmakers are well aware of the situation and one of the goals of the past governments was to reduce the tax wedge through a series of measures, including:

– Deduction of payroll costs from the IRAP (business regional tax) for an indefinite term;

– Reduction of the employers' share of social security contributions for permanent employees hired under the so-called 'CTC' contracts , effective from 1 January 2018. The 50% exemption is capped at a maximum of EUR 3,000 for a period of 36 months.

The various parties' programmes in the past political campaign that ended with the elections of 4 March 2018 also focused on cutting the tax wedge. Certain parties claimed they would introduce a 15% flat tax on employment income. This would be a welcome reduction for employees!

On the other hand, important tax facilitations on corporate welfare plans have already come into effect recently: these relate to the services in kind offered to the employees in addition to wages.

These are typically services that are aimed at increasing employee satisfaction (as they tend to meet their intangible needs) and that are also totally exempt from social security contributions and income taxes for the employees.

Recent researches have shown that the spread of employee welfare policies is quickly contributing to cutting the tax wedge in Italy.

It is an opportunity to allow companies doing business in Italy to reduce – in this case to even eliminate – the fiscal cost of these services. Neither the employees nor the employers pay any social security contributions or taxes on these services. The cost incurred by the employer is equal to the value received by the employee.

As shown in the table below, an increasing number of employers are substantially starting to use these incentives.

In order for benefit expenses to be considered for tax purposes, corporate welfare plans must be available to all staff or to certain categories of employees. It is worth noting that an eligible category of employees might be that of expat employees, as the latter may receive additional benefits compared to 'ordinary' employees.

This means that, for instance, educational costs for the children of expat employees might be excluded from the calculation of their taxable employment income if they are paid within the framework of a corporate welfare plan.

In any case, many companies in Italy are arranging their own employee welfare plans for their entire staff in order to avail themselves of the related tax facilitations.

Conclusion

The forms of employee benefits envisaged by the Italian lawmakers are indeed very attractive and may represent a remarkable incentive for both employers and employees.

It is worth noting that in order to benefit from these incentives, certain specific objective and subjective requirements must be met, which requires specific and more detailed considerations.

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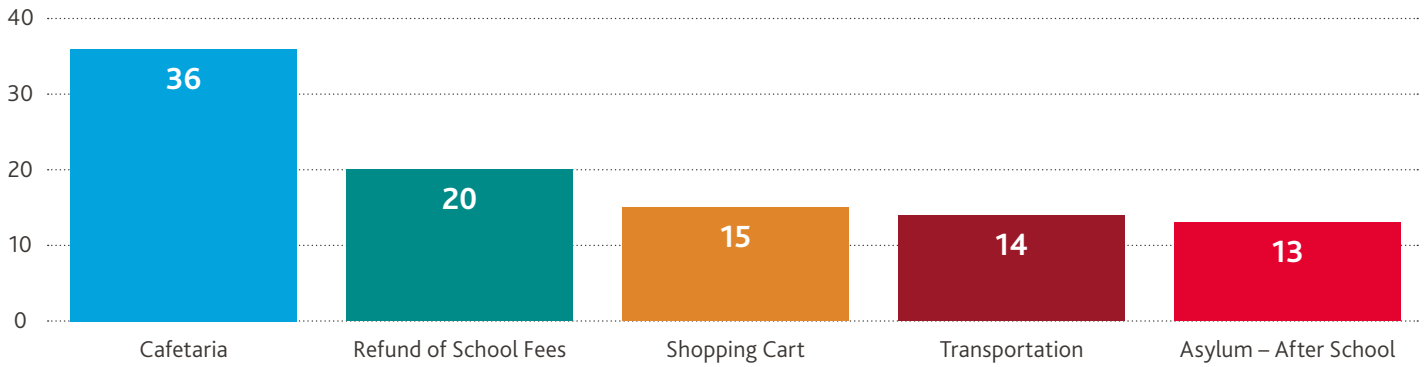
Data Source OCSEL 'Observatory on collective bargaining'



MALTA

QUALIFYING EMPLOYMENT IN MARITIME ACTIVITIES AND THE SERVICING OF OFFSHORE OIL AND GAS INDUSTRY ACTIVITIES (PERSONAL TAX) RULES 2018

Summary

On 27 April 2018, a new preferential tax rate was introduced, applicable to non-domiciled individuals employed by a Malta company to carry out maritime activities and services in the Offshore Oil and Gas Industry.

Please find below a summary of the main provisions:

- The Rules provide for a beneficial tax rate of 15% on the qualifying employment income derived from an eligible office, subject to a minimum annual salary (excluding fringe benefits) of EUR 65,000. This results in a minimum annual tax of EUR 9,750 without the possibility to claim any relief, deduction, credit or set off of any kind.
- The employee must be employed by an undertaking that:
  (a) Holds a Document of Compliance (DOC) issued in terms of the International Safety Management (ISM) Code or a Seafarer Recruitment and Placement Services Licence issued in terms of the Maritime Labour Convention, 2006; or
  (b) Engages the particular individual for work on board any ship, excluding ships operating on regular services as well as ships whose use or operation requires certification in terms of the Commercial Vessels Regulations and which are berthed or anchored within the territorial waters of Malta or any port in Malta for at least a period of one month over a calendar year (referred to in the Rules as 'Maritime activities'). For the purposes of the Rules, the term 'regular services' shall have the meaning assigned to it in terms of the Merchant Shipping (Safe Operation of Regular Ro-Ro Ferry and High-Speed Passenger Craft Services) Regulations; or
  (c) Carries on mainly a trade or business consisting in the Servicing of the offshore oil and gas and ancillary services industry (referred to in the Rules as 'Servicing of the offshore oil and gas and ancillary services activities').

The beneficial tax rate is available from year of assessment 2017 for eligible offices in the Servicing of the Offshore Oil and Gas and Ancillary Services Industry, and from year of assessment 2018 for eligible offices in Maritime activities. The beneficial tax rate is available for a period of five years for EEA and Swiss nationals and for a period of four years for third country nationals. These can be renewed for a further five years and four years respectively.

It is crucial that you fully understand who these provisions apply to and who would qualify for this preferential tax rate. This could provide a significant saving for those in the offshore oil and gas industry.

If you require any additional information, do not hesitate to contact us on **info@bdo.com.mt**.

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THE NETHERLANDS

DUTCH 30%-RULING – UPDATED FROM 2019

Summary

The favourable '30% Ruling' is being altered from 2019, with the maximum period it can apply reduced to five years. This will also affect extra territorial expenses.

The reduced period that the 30%-ruling will apply for will increase costs for both existing and new expats in the Netherlands. This will need to be reviewed to ensure that expats are not out of pocket. For those where tax equalisation is in place, this change will represent an increase in costs for the company.

Based upon Dutch tax law, as of 2001 it is possible for some employees to receive a tax-free reimbursement for extra-territorial expenses. Extra-territorial expenses are expenses that occur because the expatriate employee is living outside their home country. In principle, the compensation for these extra-territorial expenses is based on the actual cost incurred by the expat.

For a specially defined group of expats, the 30%-ruling was introduced. The 30%-ruling consists of a tax-free allowance of 30% of the taxable salary of these expats. The 30% tax-free amount is considered to cover extra-territorial expenses regardless of the actual costs incurred. The expats need to fulfil certain requirements in order for them to qualify for the 30%-regulation.

According to the current legislation, the 30%-ruling is granted for a maximum period of 96 months (eight years). This is expected to change to 60 months as of 1 January 2019. According to a 2017 evaluation of the 30% ruling, 80% of the employees benefiting from the 30% ruling do not make use of it for more than five years. This is one of the reasons the maximum duration is being reduced. It will apply to both new and existing assignees with no transitional rules.

Please note that this new duration also applies to the payment of actual extra-territorial costs as well. Therefore, after the maximum five year period, it will no longer be possible to pay extra territorial costs tax free to employees.

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SWEDEN

OBLIGATION TO MAINTAIN SWEDISH PERSONNEL LEDGERS IN ADDITIONAL INDUSTRIES

The Swedish Parliament has accepted that additional sectors should have the obligation to keep Swedish personnel ledgers from 1 July 2018. The Swedish tax agency was commissioned by the Government to investigate how the system of personnel ledgers can be developed to include additional industries to oppose social dumping and the shadow economy.

The decision

The new industries that will be required to keep personnel ledgers must follow the same rules that apply to restaurants, hairdressing and laundry businesses. The rules for the construction industry should therefore not apply to the new industries. The new decision also implies some minor changes to the current rules regarding personnel ledgers.

The new industries with an obligation to keep the personnel ledgers include Body & Beauty Care, Food & Tobacco Wholesalers and Automotive Service businesses.

The decision from the Swedish Parliament is based on the focus from the Government and the tax office to contest the shadow economy and tax evasion. A number of changes were made with reference to these goals, such as previous extended obligations to keep personnel ledgers as well as the introduction of Pay As You Earn (PAYE) returns at an individual level.

PAYE returns at an individual level must be filed from 1 July 2018 for companies that are liable to keep personnel ledgers under the previous rules, and have more than 15 employees. The remaining companies will be liable to file PAYE returns at an individual level from 1 January 2019.

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SWITZERLAND

SWISS IMMIGRATION – UPDATE ON THE QUOTA SITUATION FOR SECOND QUARTER 2018

Quotas are still currently available for short-term L permits, for B work and residence permits for EU/EFTA service providers (seconded) and for non-EU/EFTA nationals. If the cantonal quotas for third-country nationals are exhausted, the cantons can apply to the State Secretariat for additional quotas from the Federal Reserve. For the time being, there are no signs of a shortage of EU/EFTA and non-EU/EFTA quotas.

The B work and residence permit quotas for Croatian nationals are already exhausted throughout Switzerland for the second quarter of 2018. The next B permit quotas will be activated on 1 July 2018. Quotas for short-term L residence permits are currently still available in sufficient numbers throughout Switzerland.

Extension of the safe guard clause for workers from EU-2 countries (Romania and Bulgaria)

Since June 2016, EU-2 nationals have benefited from full 'Freedom of Movement'. However, a safe guard clause has been established which allows a temporary reintroduction of quotas, if immigration is 10% above the average of the previous three years. A temporary quota system was introduced for B work and residence permits in June 2017.

During a Federal Council meeting in April 2018 it was decided once again to limit B work and residence permits for a further year by restricting the maximum numbers for EU-2 workers. In the next 12 months, the B work and residence permits are therefore limited to 996 units and will be released quarterly.

At the end of May 2018, the Federal Council will decide whether a quota system will also be extended to short-term L permits based on the available permit figures.

The decision to extend the safe guard clause is one of the measures taken by the Federal Council in recent years to control immigration. Using the full potential of the domestic labour force will be developed and the necessity of job posting for professions in which the unemployment rate exceeds 8% comes into force on 1 July 2018. From 2020, the rate will be reduced to 5%.

The list of implicated professions will be published at the beginning of May 2018. We will inform you accordingly.

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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 16 May 2018.

Currency unit	Value in euros (EUR)	Value in US dollars (USD)
Euro (EUR)	1.00000	1.18852

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