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EXPATRIATE NEWSLETTER

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UNITED KINGDOM
CORPORATE CRIMINAL OFFENCE LEGISLATION

Corporate Criminal Offence (CCO) legislation has been in effect since September 2017 and HMRC's focus on this is increasing. The CCO legislation covers the failure to put necessary measures in place to prevent the facilitation of tax evasion.

A CCO is made when a company has failed to take the necessary steps to prevent tax evasion carried out by an associated person acting on their behalf in the UK or overseas. Failure to ensure your business is compliant may lead to an unlimited fine, public record of conviction and reputational damage.

Here are some of the areas where you may be at risk of non-compliance:

- Treating individuals (contractors/gross-paid individuals) as self-employed when their employment status should be employed, leading to under declared national insurance contributions and income tax;
- Not keeping track of your short-term business visitors – They could have spent more than the allocated number of days in a tax year in a jurisdiction and therefore may be obligated to file tax returns and pay income tax on employment income sourced to that country;
- If you have sent staff to work overseas to carry out income generating work, there is a risk that the activities carried out may be sufficient enough to create permanent establishment in that country. The associated registration and tax filing must then take place;
- Depending on the legislation of the country in which you have an associated person, they may be obligated to declare the income derived in that country.

In summary, as long as you ensure you have the necessary measures in place, and these are robust and remain up-to-date, you can minimise the risk of fines and/or convictions applying to your company.

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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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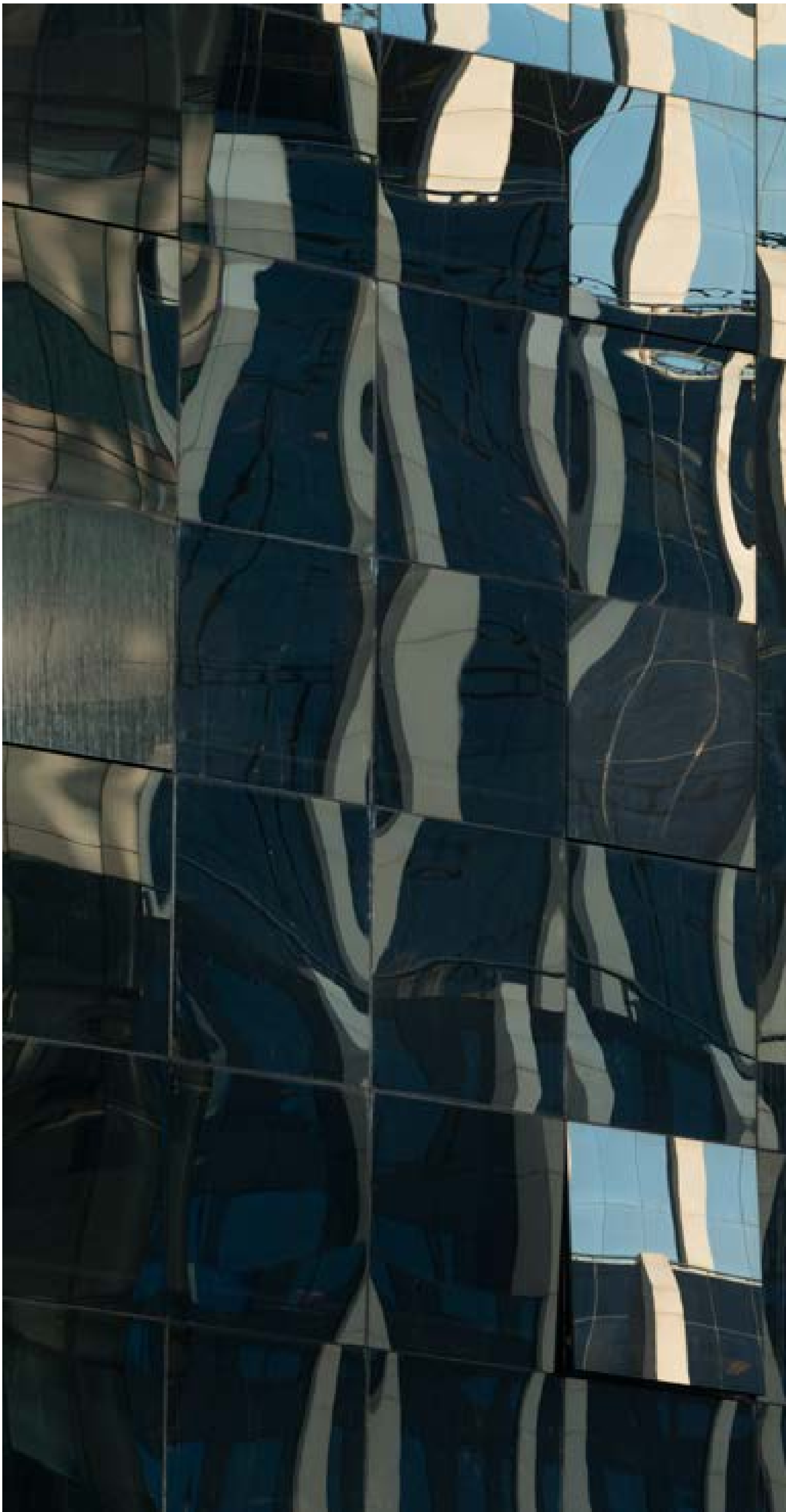

CHILE

CHANGES IN IMMIGRATION LEGISLATION IN CHILE

The possibility of applying for a temporary visa for work purposes was recently eliminated. This elimination will not affect the pending, nor the existing visas, while the visa subject to the employment contract is still valid.

In addition, other administrative measures related to the reformulation of visas were implemented, as well as the immigration status of Haitians and Venezuelans:

a) **Temporary Opportunity Visa** – This new visa was created for those who come to Chile to undertake work for up to 12 months. Implementation: 1 August 2018.

b) **Temporary International Orientation Visa** – For foreigners who have a postgraduate degree in one of the best 200 universities according to the QS ranking. Implementation: 1 August 2018.

c) **Temporary National Orientation Visa** – For foreigners who obtain postgraduate degrees in accredited Chilean universities. Implementation: 1 August 2018.

d) **Humanitarian Family Reunification Visa for Haitians** – For spouses, civil cohabitants, children under age and adults up to 24 years of age who are studying. It needs to be requested at the Chilean embassy in Haiti. Implementation: 2 July 2018.

e) **Democratic Responsibility Visa for Venezuelans** – It will be granted for a period of 1 year, extendable just once. This visa can only be requested in Venezuela. Implementation: 16 April 2018.

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CHINA

FULL TEXT AMENDMENT ON PRC INDIVIDUAL INCOME TAX ('IIT') LAW RELEASED

Chinese National People's Congress (NPC) published a draft amendment of the Individual Income Tax ('IIT') Law ('the Draft Amendment') on 29 June 2018. The Draft Amendment solicits public comments being issued. The public comment was open until 28 July 2018.

Key changes to the Draft Amendment

Definition of China residents
An individual who is Chinese domiciled or is a non-domicile but has resided in China for 183 days or more in a tax year will be deemed as a China tax resident. A China tax resident is responsible for PRC IIT on all the income derived within and outside China according to the provisions of China IIT Law.

An individual who has no domicile and does not reside in China or who has no domicile but has resided in China for less than 183 days in a tax year will be deemed as a China non-tax resident. A China non-tax resident shall pay China IIT on income derived from China according to the provisions of PRC IIT law.

Consolidation of certain income types for taxation
The Draft Amendment is considering consolidating four types of labour income, including wage and salary, remuneration for personal services, author's remuneration and royalty into one category (hereinafter referred to as 'consolidated income').

Update of PRC IIT rate table and basic standard deduction
Currently, a IIT rate ranging from 3% to 45% is applied on wage and salary income. The unified progressive tax rate applicable for consolidated income has been issued. The tax brackets of the income applicable to tax rates between 3% and 25% are adjusted to allow taxpayers to enjoy lower tax rates while those of the tax rates from 30% to 45% remain unchanged. Basic standard deductions applied to wages and salary will continue to be applicable to consolidated income, whilst the monthly deduction amount will increase from CNY 3,500 to CNY 5,000 (i.e. CNY 60,000 per year).

Specific additional tax deductions
As well as the above mentioned basic deductions and mandatory individual social security contributions specific additional tax deductions are under negotiation. These include:

- Child education;
- Continued education;
- Medical expenses for serious illness;
- Housing loan interest; and
- Housing rent.

Proposal of annual reconciliation filing on consolidated income
Tax residents shall calculate IIT on consolidated income on an annual basis. However, for tax residents who have withholding agents, the tax liabilities shall be withheld and prepaid by the withholding agent on a monthly basis or based on the occurrence of the income. An annual reconciliation return should be performed between 1 March and 30 June following the year end if there is additional tax due or any overpayment. In the event of tax residents providing relevant information of specific additional tax deductions, the withholding agent shall not refuse to deduct such amounts while prepaying the monthly IIT.

Non-tax residents need to perform a self-declaration by the 15th of the month following the receipt of the income. The withholding agents shall withhold and prepay the IIT liability on behalf of the non-tax residents on a monthly basis or based on the occurrence of the income, and no annual reconciliation filings are required. If there is no withholding agent, non-tax residents need to perform self-declaration within 15 days in the following month upon receiving the income.

Anti-tax avoidance and collaboration among relevant authorities
Referring to anti-tax avoidance regulations of PRC Enterprise Income Tax, the tax authorities are given the power to make tax adjustments and impose interest in a reasonable manner in respect to individual tax avoidances. This includes transfer of property between an individual and his/her related parties in violation of the arm's length principle, tax avoidance in tax havens outside China and obtaining improper tax benefits from other unreasonable commercial arrangements.

Impact on taxpayers

Taxpayers' tax burdens will be reduced, especially for the middle and low income groups, through the modification of the tax rate and improvement of the tax deduction and specific additional tax deductions of the consolidated income.

The existing annual tax filing will be replaced by the annual reconciliation filing with the filing period to be updated from 31 March to 30 June of the following year.

Anti-tax avoidance and collaboration among relevant authorities indicates that China will strengthen the information exchange among relevant parties and enhance the IIT administration.

According to the existing PRC IIT implementation rule, foreign nationals who reside in China for more than five full consecutive years will be subject to PRCIIT on their worldwide income. In light of the fact that the Draft Amendment may apply a 183 day period to determine the status of China tax residence, attention should be paid to any proposed changes to the aforesaid five-year rule. If any changes are made, it may significantly impact certain foreign nationals.

Based on the above, taxpayers should take extra care to ensure they can claim necessary tax benefits and avoid potential tax risks generated by these new policies. BDO China International Tax Service team is experienced in handling the relevant IIT matters and providing professional IIT advisory for both foreign and Chinese individuals. We will follow up on the rapid changes in China's regulatory environment and keep you posted with any updates.

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THE NETHERLANDS

DUTCH WORK COST REGULATION

Since 1 January 2015 the work-related costs regulation (WCR) has been mandatory in The Netherlands.

The below rules need to be considered for your international assignees if they are classed as tax resident in The Netherlands.

Principal rules

The principal rule underlying the WCR is that all employee allowances, benefits and provisions qualify as wages, the only exceptions being:

- Allowances, benefits and provisions unrelated to the employment relationship, but motivated by empathic reasons (e.g. fruit basket, funeral wreath);
- Gifts worth up to EUR 25 including VAT presented on specific occasions;
- Reimbursement of intermediary expenses (e.g. company car and representational expenses related to clients).

No payroll tax consequences would occur if equipment like computers, laptops, tablets and/or mobile communication devices are provided, reimbursed or put at the disposal of employees. This is only the case as long the employee needs the equipment to perform their work and actually uses the equipment for their work. This is called the necessity criteria.

For example, if it is within reason that an employee needs a smartphone to do their job and in fact uses the phone for this purpose, the phone can be provided or reimbursed tax-free to the employee. This could therefore depend on the job title/function of each employee.

All other employee allowances, benefits and provisions are classified under one of the following categories:

- Taxable wages;
- Specific exemptions (if designated as a final levy component);
- Zero-rate valuation;
- Flat-rate valuation;
- Other elements.

A number of allowances, benefits and provisions qualify for a specific exemption, if designated as being liable to tax deducted at source. Please note that the designation of the specific exemptions is a necessary condition. Without this designation, the Dutch tax authorities will have the point of view that these elements do not qualify as specific exemptions and therefore they should qualify as net wages.

Currently, the Dutch Government is in the process of evaluating the WCR. The necessary designation is one of the elements under discussion. At this moment, however it is still necessary to fulfil this administrative condition.

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TURKEY

NEW LEGISLATION IN TURKEY RELATING TO FOREIGN ASSETS

Tax authorities in Turkey recently introduced a Tax Amnesty Law, which allows Turkish tax residents to bring assets acquired in another country to Turkey under beneficial conditions. It also includes immunity from enquiry and inspection in relation to foreign assets as long as certain criteria is met.

If the qualifying dividends and capital gains derived from foreign stock assets are remitted to Turkey and declared by 31 July 2018 then they will not be taxed. If assets are declared after 31 July 2018 but by 30 November 2018, they will be taxed at 2% – the assets must be brought into Turkey within three months of the declaration being made.

Proof that the income has been transferred to Turkey within the time period specified must be given in both of the above instances. The income from the assets brought into Turkey will be reported on the tax return; however, it will be shown as exempt from tax (if it meets the criteria for exemption) and will not have any effect on the income tax calculations.

The amnesty applies to Turkish resident taxpayers participating in stock arrangements with their employer, where the underlying shares are foreign stock.

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UNITED STATES

THE DISALLOWANCE OF MOVING EXPENSES AND ITS IMPACT ON DOMESTIC AND GLOBAL MOBILITY PROGRAMS

On 22 December 2017, with the enactment of the Tax Cuts and Jobs Act ('the Act'), the US entered into a new era of tax reform, which had not been seen since the Tax Reform Act of 1986. The passage of this new law brought about widespread changes to includable and excludable items, with moving expenses being one of the most notable.

Prior to the Act, qualified moving expense reimbursements were excludable from an employee's gross income, and unreimbursed qualified moving expenses could be deducted by the employee. For tax years after 31 December 2017, and before 1 January 2026, this is no longer the case; these moving expense reimbursements must now be included in the employee's gross income and the employee will be unable to deduct any unreimbursed moving expenses. It is important to note, however, that employers are still able to deduct these reimbursements as wages on their corporate income tax returns.

International assignment costs can often create the most expensive class of employees in the company, and, in many instances, moving expenses alone can exceed USD 10,000 in the year of transfer. For those relocation programs with a traditional tax equalisation policy in place, a key feature is keeping the employee whole and not burdening the assignee with additional tax costs.

When considering tax assistance for Federal, State and social taxes, should the employer wish to settle these amounts, the gross up rate can easily exceed 60%. While many States conform to Federal tax law, and will therefore require the inclusion of previously excludable qualified moving expense reimbursements there is at least one state, New York, that will not. The New York State Budget provides that qualified moving expenses and reimbursed qualified moving expense remain excluded from Adjusted Gross Income for New York State income tax purposes. Employers will need to determine on a State by State basis whether a gross-up is required.

Employers with domestic and international cross-border relocations are now faced with significant cost increases as a result of the Act and, depending on how they move forward with their domestic and global mobility programs, have some important decisions to make:

- How can these additional costs be mitigated?
- What overall policy changes need to be made?
- To ensure thriving domestic and global mobility programs, how should these changes be communicated to employees?

Relocation program managers should carefully consider these questions and consider how the answers align with their corporate goals. While cost control is important, equally important is the message that companies are sending to those employees who are considering a domestic or international move, be it short term or long term. As programs develop a policy around taxable moving expenses, clear and concise employee communication will be key, particularly if tax assistance is not being provided.

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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 14 August 2018.

Currency unit	Value in euros (EUR)	Value in US dollars (USD)
Chinese Yuan Renminbi (CNY)	0.12745	0.14523
Euro (EUR)	1.00000	1.13933
US dollar (USD)	0.87760	1.00000

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