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Australia: Australian Taxation Office to increase data matching with the Department of Immigration and Border Protection

Overview

The Department of Immigration and Border Protection (DIBP) has announced a visa holder data-matching program to assist the Australian Taxation Office (ATO) to identify compliance risks for Australian visa holders. The primary focus of the announced changes is centered on noncompliance with visa work conditions, the employer sponsorship obligation of maintaining Australian market salary rates, tax return integrity, income tax, and goods and services tax (GST) noncompliance and fraud. The ATO has announced its review of data captured between 1 July 2011 and 30 June 2014 has established that there are cases of noncompliance and fraud requiring further investigation.

Announcement

Based on its initial findings, the ATO has announced it will acquire names, addresses, and various other details of visa holders, their sponsors, and migration agents for the 2013 – 14, 2014 – 15, 2015 – 16, and 2016 – 17 financial years from DIBP.

The data items that will be obtained include:

- Address history for visa applicants and employer sponsors;
- Contact history for visa applicants and employer sponsors;
- All visa grants;

- Visa grant status by point in time;
- Migration agents (visa application preparer who assisted or facilitated the processing of the visa);
- Address history for migration agents;
- Contact history for migration agents;
- All international travel movements undertaken by visa holders (arrivals and departures);
- Sponsor details for businesses which utilize the temporary work (skilled) visa (Subclass 457);
- Education providers (educational institution where the student visa holder intends to undertake their study); and
- Visa subclass name.

It is estimated records relating to approximately 1,000,000 individuals will be obtained. These records will be electronically matched with ATO data to identify noncompliance with registration, lodgment, reporting, and payment obligations.

Practical implications

The impact will be from a residence perspective and will target noncompliance, including nonlodgment of income tax returns. Companies should be aware that the ATO would expect to see pay-as-you-go and fringe benefits tax compliance, as well as superannuation guarantee compliance for individuals under their sponsorship. This same data may be used by the DIBP to detect any salaries which have fallen below the reported nomination salary level or Australian market salary rate.

Deloitte's view

With an increasing focus from the ATO, employers should ensure that they are fulfilling their tax compliance obligations and also reminding employees/secondedes from overseas that they have Australian tax compliance obligations of their own.

The integrity of the student and temporary work visa programs is undergoing renewed focus under the newly created Border Force Australia structure and the matching of this data will quickly identify areas of concern. Breach of individual visa conditions or visa sponsorship obligations can give rise to financial penalties, employer sanctions, and visa cancellation. Regular internal audits, incorporating a review of current processes, and risk exposures are strongly recommended.

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Singapore: Immigration updates

Disclosure of salary details for job posting

The Ministry of Manpower (MOM) currently does not mandate but encourages companies to state the salary range for the positions offered in the job's bank although the salary range information does not have to be disclosed to the public.

With effect from 1st October 2015, the MOM will mandate companies to indicate the salary range for the position offered, which will be made available for the public's view. Please note that the salary range in the job advertisement should not be more than two times of the salary that will be offered for the position. If the range is too wide, the MOM may not accept the advertisement as having satisfied the requirement under the Fair Consideration Framework (FCF) and accordingly, the Employment Pass (EP) application relying on the advertisement may be rejected.

In addition, the MOM has indicated that it will not consider the EP application where the advertisement for job vacancies is incomplete (e.g., no salary range declared, number of vacancies available etc.). Generally, the MOM continues to be strict in the assessment of EP applications and EP may not be easily granted.

Changes to dependant privileges

Effective 1st September 2015, the qualifying salary criteria for EP/S Pass holders to sponsor their family members are revised as follows:

Fixed monthly salary of EP/S Pass holder	Dependant Pass (DP) - Spouse - Children below 21 years of age, including legally adopted	Long-Term Visit Pass (LTVP) - Common-law spouse - Handicapped children above 21 years old - Step-children under 21 years old - Parents
\$10,000 and above (currently \$8,000 and above)	Ö	Ö
Between \$5,000 and \$10,000 (currently between \$4,000 and \$8,000)	Ö	Ö (excluding parents)

Between \$2,200 and \$5,000 (currently between \$2,200 and \$4,000)	X	X
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Deloitte's view

Companies should continue to put in measures to ensure that Singapore citizens remain at the core of Singapore's workforce. The MOM will increase scrutiny of EP applications for selected firms which have a higher proportion of foreigners to Singapore citizens. The MOM may request for additional information to verify if Singapore citizens were considered fairly for the position. However, the MOM has not provided any specific guidelines on this subject and we will provide future updates, when available.

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Global Rewards Updates: France: New rules for qualified free share awards

Background

Following on from our Global Rewards Update, December 2014, the changes to the qualified free share award regime in France have now been approved by the French Senate and have therefore been adopted into law.

URL: <http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-gru-france-041214.pdf>

The new provisions, which apply to awards granted under qualified share plans which are approved by shareholders after 8 August 2015, are largely unchanged from the proposals announced in December. The updates only impact qualified free share awards and therefore the qualified stock option regime remains unchanged.

Two year vesting and holding period requirement

Previously, a minimum cumulative vesting and holding period of four years was required for free share awards to benefit from the qualified treatment. This minimum period has now been reduced to two years (of which at least one year must be a vesting period).

Employer social security contributions

Previously, employer social security was payable on qualified free share awards at grant, at a rate of 30%.

Employer social security will now be payable on the date of delivery of the shares, at a rate of 20%, based on the market value of the shares on this date.

Employee social security contributions and social surtaxes

Previously, qualified free shares were subject to employee social security at sale, at a rate of 10%. Now, qualified free shares will become exempt from employee social security contributions.

The “acquisition gain” (i.e. the value of the shares at vesting) will continue to be subject to social surtaxes at sale but at the rate applicable to investment income, currently 15.5% (as opposed to the previous rate of 8%).

Income tax and taper relief

Income tax will continue to be payable on qualified free share awards at sale, based on the acquisition gain at vesting.

Taper relief of 50% or 65% (depending on the number of years the shares have been held for since vesting) is now available to reduce the acquisition gain which is subject to income tax. Taper relief also continues to be available on the capital gain (i.e. the difference between the sales proceeds and the value of the shares at vesting).

Action

The new rules should make qualified free share awards more attractive to French employers and employees.

Companies offering qualified free share plans should therefore consider whether they would like to update their plan rules and consider whether shareholder approval is needed in order to benefit from the more favourable regime now available.

Companies operating non-qualified share plans in France should consider whether they would like to implement qualifying plans in order to benefit from these changes. It is likely that a French addendum to the plan rules would be required (regardless of whether the plan meets the minimum vesting and holding period requirement).

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