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Global Employment Solutions

Global InSight

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Canada:
Government plans border tracking system to monitor social security claims

Overview

A recent memo released under the Access to Information Act discloses the Canadian government's plan to use a border tracking system to determine entitlement to social security benefits. The stated purpose of this initiative is to prevent abuse of Employment Insurance, Old Age Security, and Child Tax Benefit programs. However, the implications could be much broader.

Background

Canada and the United States agreed to set up coordinated border tracking systems under the Perimeter Security Pact signed in 2011. Pursuant to this pact, there has been phased implementation of information exchange between the two countries to track the entry and exit of travelers. While the primary purpose of this program is national security, the Canadian government plans to share this data with other governmental agencies including the Canada Revenue Agency (CRA). The CRA intends to use this data to determine whether claimants of social security benefits do in fact satisfy the residency requirements for such claims.

Further, the memo suggests that this information is merely intended to be a tip-sheet for government agencies to solicit additional information from the travelers. It has been asserted that this information will not be the basis of action against any individual, but rather will be used for inquiry by the CRA and Employment and Social Development Canada. These agencies expect to save between $194 million and $319 million respectively over five years once phased implementation is complete.

This initiative is currently being examined by the federal Privacy Commissioner's office, to determine whether the information shared is necessary and effective, and undertaken in the least invasive manner possible, ensuring that it is designed so that any loss of privacy is proportionate to societal benefits.

Presently, the federal government does not have the legislative authority to implement this tracking mechanism and would be required to pass a bill in Parliament to do so. Such legislation would set out specifically the use of information collected and would also provide redress procedures under which people can request access to their personal information, ask for corrections if needed, and file complaints.

Deloitte's view

For the internationally mobile population, this initiative points to the fact that governments are using every means to track their citizens and residents in order to ensure that the right amount of taxes are collected and benefits dispensed. Specifically, this tracking initiative could have the following broad implications:

- **Tracking and reporting of the number of days spent out of Canada:** The CRA will be in possession of data from this border exit-tracking system. Accordingly, it will be incumbent upon taxpayers to be diligent in tracking and reporting the number of days spent out of Canada to the CRA and other federal agencies. In certain cases, penalties for false statement or omissions may otherwise be applicable.
- **Canadian withholding requirements:** Recently, the Canadian government had proposed relieving measures in respect of withholding requirements for a certified nonresident employer that pays a nonresident employee for services rendered in Canada. (For more information, we refer you to our Newsflash "Canada – Relief from payroll withholding obligations for business travelers: A step in the right direction.") This is another reason for employers to ensure that robust internal tracking and reporting systems are in place.
- **Cross-border filings:** This initiative is a bilateral project. Accordingly, we would expect that the US Internal Revenue Service and potentially state tax authorities will also make use of the information regarding the number of days a business traveler has spent in the United States. Employers should therefore ensure that business travelers are diligent in complying with US and applicable state tax filing requirements.
- **Employee equalization calculations:** Typically, most equalization calculations do not take into account the loss of benefits, such as Employment Insurance, the Child Tax Benefit, or Old Age Security payments. The internationally mobile population may negotiate for the loss of these benefits to be considered for equalization purposes.
- **Immigration:** As has always been the case, it will be important to ensure that the appropriate visas are obtained for employees. Any misrepresentation due to lack of information regarding entries and exits by employees could have a detrimental impact on the business, both from a financial and reputational perspective.

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United Kingdom:
Autumn Statement 2015

Overview

On November 25, the Chancellor delivered his Autumn Statement of 2015 to Parliament.

Outlined below is a summary of the key measures of relevance to employers impacting reward, employment taxes, and international mobility.

Headline announcements generally impacting employers

- The Chancellor made various announcements impacting employment taxes, tax administration, and tax avoidance, which are explained in detail below.
- Income tax rates and allowances for 2016/17 are expected to remain unchanged from both current levels and those announced for 2016/17 in the Summer Budget 2015. As such, the main income tax rates remain at 20%, 40%, and 45%.
- National Insurance rates and thresholds also remain largely unchanged although, as previously announced in the Summer Budget 2015, there is a small increase in the upper earnings limit from £815 per week (£42,385 per year) to £827 per week (£43,000 per year).
- Capital gains tax rates remain unchanged, but any tax due on the disposal of UK residential property will need to be paid within 30 days of the date of disposal from April 2019.
- From 1 April 2016, the rate of stamp duty payable on the purchase of additional residential properties (with a purchase price above £40,000), such as buy-to let properties and second homes will be 3% points above the current Stamp Duty Land Tax rate.

Employment Taxes and Share Schemes

- The government will introduce the apprenticeship levy in April 2017. It will be set at a rate of 0.5% of an employer's pay bill and will be paid through PAYE. Each employer will receive an allowance of £15,000 to offset against their levy payment. This means that the levy will only be paid on any pay bill in excess of £3m.
- The government remains concerned about the growth of salary sacrifice arrangements and is considering what action, if any, is necessary. The government will gather further evidence on salary sacrifice arrangements to inform its approach in this area.
- In relation to tax-free childcare, the government will lower the upper income level per parent from £150,000 to £100,000 and increase the minimum income level per parent from the equivalent of 8 hours to 16 hours at the national living wage.
- The government will introduce a number of technical changes to streamline and simplify aspects of the tax rules for tax-advantaged and nontax-advantaged employer share schemes. The intention of these changes is to provide more consistency, which includes putting beyond doubt the tax treatment of certain employment-related securities (ERS) and ERS options for internationally mobile employees. In short, any charge to tax will now likely arise under the specific rules that deal with ERS options, rather than under the rules governing general employment earnings.
- The government announced a change in the company car tax diesel supplement. From April 2016, the 3% point differential between diesel cars and petrol cars will be retained until April 2021.
- As confirmed at the Summer Budget 2015, the government will legislate to restrict tax relief for travel and subsistence expenses for workers engaged through an employment intermediary, such as an umbrella company or personal service company. Following consultation, relief will be restricted for individuals working through personal service companies where the intermediaries legislation applies. This change will take effect from 6 April 2016.
- The government announced its response to the final report of the Office of Tax Simplification (OTS) review of employment status and confirmed that it is taking forward the majority of its recommendations.
- Also, following recommendations from the 2014 OTS report on simplifying the administration of employee benefits and expenses, the government will publish a call for evidence on the current tax treatment of employers providing living accommodation.

Deloitte's view

- For a number of the announcements made, the full impact will only become clear once the details of the proposed changes have been published and can be fully analyzed.
- Many employers will welcome the fact that the rate of the apprenticeship levy has been announced as this means they can budget appropriately for it.
- The proposed changes to the taxation of ERS are expected to impact employers who award Restricted Stock Units (RSUs) and Performance Stock Units (PSUs) to their internationally mobile employees. While the amount of income tax payable may be similar, there may be significant differences in the National Insurance treatment. Further, there are expected to be additional complexities in relation to the capital gains tax payable on sale of the shares acquired. These changes are expected to have a

particular impact on mobile employees who acquire shares in UK headquartered companies.

Tax administration and simplification

- The government announced that it will invest £1.3 billion to transform Her Majesty's Revenue and Customs (HMRC) into one of the most digitally advanced tax administrations in the world, with access to digital accounts for all small businesses and individuals by 2016/17.
- Further, by 2020, it will require most businesses, self-employed people, and landlords to keep track of their tax affairs digitally and update HMRC at least quarterly via their digital tax account thereby reducing errors through recordkeeping. The government will consult on the details of this proposal in 2016.
- In addition, the government will consult on options to simplify the payment of taxes, including whether to align payment dates and bring them closer to the point when profits arise so that taxpayers make a single regular payment that covers all their tax affairs.

Deloitte's view

- These changes will be welcome news to many employers and employees given the intention is to simplify the taxation system, although the timescale may appear to be ambitious for such a significant change.
- It is not yet clear how these proposed changes would impact individuals with more complex tax affairs, such as internationally mobile employees.
- Pensions
- At the Summer Budget 2015, the government launched a consultation on the system of pensions tax relief. The government is considering the responses it has received and will publish its response at Budget 2016.
- The government announced in respect of the automatic enrolment minimum pension contribution rates that it would delay the next two scheduled increases by 6 months each, to align these changes with the start of the next tax year.

Deloitte's view

- Employers will be keen to hear what the government's proposals regarding further changes to the pension regime will be and how these may impact the pension schemes they operate currently.

Other announcements of interest to employers

- Further announcements were made by the government in respect of tax evasion and compliance, including a new criminal offence for tax evasion, new civil penalties for offshore tax evaders, and new civil penalties for those who enable offshore evasion. There will also be an additional requirement to correct past offshore tax noncompliance and a new penalty of 60% of tax due will be charged in all cases successfully tackled by the GAAR (General Anti-Avoidance Rule).
- The government intends to take action against those who have used or continue to use disguised remuneration schemes and have not yet paid what the government regards

as their fair share of tax. It will also consider legislating in a future Finance Bill to close down any future schemes intended to avoid tax on earned income, where necessary, with effect from 25 November 2015.
- The government will also introduce legislation to determine when performance awards received by asset managers will be taxed as income or capital gains. An award will be subject to income tax, unless the underlying fund undertakes long-term investment activity.
- The government will amend the capital gains tax computations required by nonresidents on the disposal of UK residential property by removing with retrospective effect from 6 April 2015, a double charge that occurs in some circumstances and correcting an omission from 25 November 2015.
- In addition, the government will also give HMRC powers to describe circumstances when a capital gains tax return is not required by nonresidents and will add capital gains tax to the list of taxes that the government may collect on a provisional basis.

Deloitte's view

- As in prior statements, the government has confirmed its intention to ensure full compliance with tax laws.
- The proposed changes around capital gains may be of interest to employers who have internationally mobile employees and/or where capital gains tax forms part of their tax equalization or relocation policy.

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If you have needs specifically related to this newsletter's content, send us an email at clientsandmarketsdeloittetax@deloitte.com to have a Deloitte Tax professional contact you.