



Global InSight

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Australia:

Update to Living-Away-From-Home-Allowance 'reasonable food and drink' expenses

Overview

The Australian Taxation Office (ATO) has released Taxation Determination 2016/4 to set out the amounts the commissioner considers reasonable for food and drink expenses incurred by employees receiving a Living-Away-From-Home Allowance.

Living-Away-From-Home Allowances

Australian businesses have an increasing number of employees who are required to travel and work in different locations, whether overseas, coming to Australia, or domestically within Australia. Such types of travel may broadly be broken into three categories:

1. Travelling in the course of employment (generally for short trips of less than 21 days);
2. Indefinite relocation (where the employee has changed their usual place of residence); and
3. Living away from home (where the employee has temporarily relocated and is living away from their usual residence).

Employers will regularly compensate employees for the additional costs or disadvantages incurred while travelling. An employee's classification within one of these categories will depend on the individual's specific facts and circumstances, and any concessional tax treatment will vary accordingly.

Where an employee is provided with a Living-Away-From-Home Allowance, they will prima facie be in receipt of a fringe benefit, and the employer will be subject to tax at the top marginal tax rate (49%) on the 'grossed-up' value of the benefit. The taxable value of the benefit may be reduced, however, where a component of the allowance that relates to food and drink is either:

1. Equal to or less than the reasonable limits provided by the commissioner or
2. Substantiated with documentary evidence obtained in relation to the expense and a declaration provided to the employer.

The taxable value will only be reduced where the employee is living away from home and meets the conditions for a fly-in, fly-out rotation or maintains a home in Australia from which they are living away from (in this case, the concession is available for up to a maximum of 12 months).

Accordingly, where a component of a Living-Away-From-Home Allowance provided to an eligible employee relates to food and drink and that part is less than the commissioner's reasonable limits, such amount will be reduced from the taxable value of the fringe benefit and will not require substantiation. Furthermore, this component is not taxed in the hands of the employee.

2016 FBT Year Reasonable Amounts

The reasonable limits are based on the number of family members and whether the expense is incurred domestically or overseas. For overseas expenses, the rates are broken into various country 'cost groups'. The reasonable amounts for the Fringe Benefits Tax (FBT) year commencing 1 April 2016, shown below, demonstrate a \$1 increase in all limits from the prior year:

Eligible family members	Reasonable limit per week (\$)
One adult	242
Two adults	363
Three adults	484
One adult and one child	303
Two adults and one child	424
Two adults and two children	485
Two adults and three children	546
Three adults and one child	545
Three adults and two children	606
Four adults	605

In relation to larger family groups, the commissioner accepts the reasonable food and drink amount based on the above figures plus \$121 for each additional adult and \$61 for each additional child.

Deloitte's view

Eligible employers will continue to benefit from providing Living-Away-From-Home Allowances in relation to food and drink expenses within the reasonable limits as provided by the

commissioner. This component may not be subject to other employment tax obligations, such as Superannuation Guarantee, Payroll Tax, and Pay-As-You-Go Withholding Tax. Equally, the amount may not be subject to FBT, will not be a reportable fringe benefit, and will not be taxed in the hands of the individual.

The provision of Living-Away-From-Home Allowances to employees is a regular target of ATO review. Employers must carefully consider the nature of the employee's underlying travel arrangements to consider whether the employee is living away from home.

The increase in reasonable limits this year has been the lowest of the increases in the last two years. While the last two years appear to have increased by a fixed percentage across board, this year's increase is a flat \$1 increase in each amount. This increase will disadvantage those members of larger family groups as the percentage increase relative to the consumer price index will be less for such larger amounts.

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Hong Kong: Nonresident sentenced to jail for working illegally in Hong Kong

Overview

On April 1, 2016, Hong Kong's immigration task force sent an undercover officer to a photo shoot being held in a local hotel and arrested a Taiwanese model and her manager on suspicion of working illegally in Hong Kong. The model and the manager came to Hong Kong to participate in the photo shoot event that was hosted by a Hong Kong photography association. The model pleaded guilty on April 6, 2016, at the Shatin Magistrates' court and was sentenced to jail for two months. Her manager is charged with aiding, abetting, counseling, or procuring the breach of a condition of stay in Hong Kong and will be required to reappear in court in May.

Immigration rules for nonresident artists

Under Hong Kong's immigration rules, visitors to Hong Kong are not permitted to take up any employment in Hong Kong or to establish or join any business in Hong Kong without the permission of the Director of Immigration. Regardless of the duration of the activities or whether the individual is paid or unpaid, a nonresident individual (artist/model/entertainer/public speaker) must obtain an employment visa before he/she is

allowed to work in Hong Kong (e.g., performing/modelling/photo shoots/filming/speaking at seminars).

Offenders are liable to prosecution and, if convicted, may be sentenced to a maximum fine of up to HKD 50,000 and imprisonment for up to two years. Furthermore, anyone employing or engaging persons not lawfully employable in Hong Kong is liable to a maximum fine of HKD 350,000 and up to three years' imprisonment.

The latest trend

The Hong Kong authorities are cracking down on illegal workers, and in recent years, the Immigration Department has taken tough and strict enforcement actions in this area. Measures taken include publishing government policies and regulations, encouraging the public to whistle blow on offenders (through a 24-hour hotline or the Immigration Department website) and an increase in the number of unannounced inspections. In the current case, the immigration authorities received a tip from a member of the public and decided to send an undercover agent to the event to arrest the Taiwanese model and her agent. These actions illustrate the determination of the authorities to enforce the regulations.

Deloitte's view

While Hong Kong immigration procedure is relatively straightforward and easy, the authorities are committed to ensuring compliance with the rules. Businesses should be reminded the importance of making sure that their employees have obtained the necessary documentation and approvals.

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The Netherlands: Changes in orientation year scheme

Extension of the “orientation year” scheme

The Dutch authorities have amended the ‘orientation year’ scheme for highly educated foreign nationals. With the changes, the Dutch authorities aim to attract more highly educated persons and researchers to enhance the competitiveness of the Netherlands and to strengthen the Dutch knowledge economy.

Foreign students graduated in the Netherlands are now eligible to apply for a residence permit ‘orientation year’ within three years after graduation. This residence permit enables them to look for paid employment in the Netherlands. The ‘orientation year’ residence permit is granted with a validity of one year and allows the holder to work without a work permit in the Netherlands.

As of March 1, 2016, foreign nationals that have graduated (Masters’ degree) from an international Top 200 University (Top 200 on the Shanghai ranking, Academic Ranking of World Universities), Times Higher Education World University Rankings or QS World University Rankings) or have held a Dutch residence permit as a ‘scientific researcher’ are also eligible for an orientation year residence permit. Through the amended scheme, they are now also authorized to work on the basis of the orientation year permit without a work permit.

The following categories are now eligible for the orientation year residence permit:

- Foreign nationals who have completed a bachelor’s or master’s degree at a Dutch University or HBO (university of applied sciences), within three years after graduation;
- Foreign nationals who have obtained a PhD degree in the Netherlands, within three years after graduation;
- Foreign nationals who have obtained a master’s degree or PhD degree from an international Top 200 University, within three years after graduation; and
- Scientific researchers who have held a Dutch residence permit as a scientific researcher or highly skilled migrant (HSM), within three years after expiry of their Dutch residence permit.

Through the amendments, all of the above categories are eligible for a residence permit as a HSM, if they meet the lowest salary threshold of the HSM scheme (the ‘graduates’ threshold of EUR 2,228 gross per month, excluding holiday allowance).

Deloitte’s view

The changes in the orientation year scheme result in more possibilities to attract, and retain, highly educated persons to the Dutch labor market. The amendment to extend the period after graduation from one year to three years provides more flexibility for foreign nationals that have graduated, or performed scientific research, in the Netherlands. They can now, for example, first return to their country of origin after having graduated, and then come back to the Netherlands at a later stage in order to look for employment.

We also foresee an increase in orientation year residence permit applications for students and researchers who have graduated abroad from an international Top 200 University.

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Singapore: 2016 Budget

Overview

The Minister for Finance, Mr Heng Swee Keat, presented the budget statement on 24 March 2016. The changes come at an important moment in Singapore's development and will set the blueprint for Singapore's transformation to ensure that we will overcome the expected challenges and steer the country towards SG100.

The following changes have been proposed for the individual income tax:

Personal tax rates

In the 2015 Budget, the Minister had proposed a more progressive personal income tax rate structure for resident individual taxpayers with effect from the Year of Assessment (YA) 2017 (income year 2016), with an increase in the marginal tax rates for income exceeding S\$160,000 and an increase in the top marginal personal income tax rate from 20% to 22% for income exceeding S\$320,000.

	Chargeable income (\$)	Tax rate (%)	Tax (\$)
	10,000	2.00	200
On the first	30,000		200
On the next	<u>10,000</u>	3.5	350
On the first	40,000		550
On the next	<u>40,000</u>	7.00	<u>2,800</u>
On the first	80,000		3,350
On the next	<u>40,000</u>	11.50	<u>4,600</u>
On the first	120,000		7,950
On the next	<u>40,000</u>	15.00	<u>6,000</u>
On the first	160,000		13,950
On the next	<u>40,000</u>	18.00	<u>7,200</u>
On the first	200,000		21,150
On the next	<u>40,000</u>	19.00	<u>7,600</u>
On the first	240,000		28,750
On the next	<u>40,000</u>	19.50	<u>7,800</u>

	Chargeable income (\$)	Tax rate (%)	Tax (\$)
On the first	280,000		36,550
On the next	40,000	20.00	8,000
On the first	320,000		44,550
On the next	320,000	22.00	

Deloitte's view

Given that the Minister has announced a change in the personal income tax rates with effect from the YA 2017 in the 2015 Budget, it is within expectations that no further changes to the personal income tax rates have been announced.

Personal tax rebate

Although there was a one-off personal income tax rebate of 50%, capped at S\$1,000, granted to resident individual taxpayers for the YA 2015, the Minister has not proposed to grant any personal income tax rebate for resident individual taxpayers for the YA 2016.

Deloitte's view

Given the expectation of the increase in funding required for the various initiatives to transform the Singapore economy and the slower economic growth forecasted for the coming year, it is not a surprise that the Minister has not proposed to grant any tax rebate for the YA 2016. In addition, the tax rebate granted in YA 2015 was on account of the Jubilee year and in celebration of SG50.

Cap on personal income tax reliefs

Currently, there is no limit on the total amount of personal income tax reliefs a resident individual taxpayer can claim in any YA, as long as the conditions of claim for the respective reliefs are met.

Proposed: To ensure that the personal income tax regime remains progressive, the Minister has proposed to cap the total amount of personal income tax reliefs that a resident individual taxpayer can claim to S\$80,000 per YA.

Effective date: YA 2018 (income year 2017)

Deloitte's view

The capping of the personal income tax reliefs at S\$80,000 comes as a surprise and appears to be contradictory to the government's efforts to encourage procreation. Typically, it is the female individual taxpayers with Singapore citizen children who are able to enjoy personal tax reliefs that may be in excess of S\$80,000, as they get to enjoy Working Mother's Child Relief with a cap of S\$50,000 on each qualifying child. However, with the S\$80,000 cap on personal income tax reliefs, this may appear to send a message that is inconsistent with the government's policy to encourage families who can afford to have more children, and to incentivise high income earning mothers to remain in the workforce.

Removal of the tax concession on home leave passages for foreign employees

Currently, as an administrative concession granted by the Inland Revenue Authority of Singapore (IRAS), the taxable benefit of the home leave passages provided by an employer to foreign employees and their families (limited annually to one passage each for the employee and spouse, and two passages for each dependent children) is computed based on 20% of the value of the leave passages taken to the home country. Additional home leave passages provided will be taxable in full.

Proposed: The Minister has proposed to remove the administrative concession of computing the taxable benefit of the home leave passages based on 20% of the value of the leave passages provided by employers to foreign employees to go on home leave. With effect from the YA 2018, all home leave passages provided would be taxable in full.

Effective date: YA 2018 (income year 2017)

Deloitte's view

With the removal of the generous administrative concession previously available in respect of the provision for housing accommodation with effect from 1 January 2014, this would appear to be another measure to increase the tax liability of foreign employees working in Singapore.

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