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Malaysia:
New immigration charges (ESD online)

Overview

MYXpats Center began operations in June 2015 where an online platform (ESD online) was created to support an efficient employment pass application process. Since its launch, application charges have not been levied as the platform was still considered at development stage and the aim was to give the opportunity for users to test the platform accordingly.

The center has recently announced the implementation of application charges effective 1 June 2016 for skilled expatriate employment pass and related applications.

Changes to note

With effect from 1 June 2016, the following government charges will be applicable to application made under ESD online.

Type of pass	Application charges per application (Ringgit Malaysia)	Goods & Service Tax (Ringgit Malaysia)
Employment Pass	RM 300.00	RM 18.00
Dependant Pass	RM 70.00	RM 4.20
Social Visit Pass	RM 70.00	RM 4.20

- Payment for these applications can be made via credit card and Internet banking.
- Payment has to be done before the application can be processed by MYXpats Center.
- Payee will be made to ‘Malaysia Expatriate Services Centre Sdn Bhd.’
- More details will be announced from time to time.

Deloitte’s view

The implementation of application charges by MYXpats Center is expected, similar to what has been implemented across other agencies under the purview of Immigration Authorities. The application charges are expected to improve the services at MYXpats Center and ESD online portal experience.

We expect continuing improvement on immigration processes and timeline by MYXpats Center.

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Global Rewards Updates:
People’s Republic of China: Preferential tax treatment on share awards extended to certain unlisted companies

Background

Effective 1 January 2016, preferential income tax treatment has been extended to share awards granted by certain unlisted companies. Previously under the national tax regulations, preferential income tax treatment was only available for employee share awards granted by listed companies.

Changes to the tax treatment

China’s Ministry of Finance and the State Administration of Taxation (SAT) have issued guidance (Circular 116) to extend preferential individual income tax (IIT) treatment to qualified employees working for qualified “high-new technology enterprises” (HNTEs), with the goal of stimulating technological innovation.

In order to qualify as an HNTE, a company (either Chinese or foreign) would need to fulfil a set of criteria and be certified as an HNTE by an office established jointly by the Ministry of Science and Technology, the Ministry of Finance and the SAT. Qualified employees include key technical or management personnel who make an outstanding contribution to the HNTE. These could include:

1. Outstanding contribution to the research, development and industrialisation of technological achievements in the enterprise; or
2. Outstanding contribution to enterprise development.

The qualified treatment will only be available for awards granted under discretionary share plans. Broad-based employee share plans are not eligible for the preferential tax treatment.

In addition to extending the availability of the preferential tax treatment, the Circular also provides that in certain situations, individuals can pay their IIT liability by instalments over a five-year period if they are unable to settle their tax liability immediately.

Practical impact

The method of calculating the preferential tax treatment for HNTEs will be the same as the current method used by listed companies as outlined below. Similarly, as currently required for listed companies, HNTEs will need to register any plans with the relevant tax authorities to obtain their approval to use the preferential tax treatment.

In applying the preferential tax treatment, the taxable share award amount is considered separately to all other employment income (i.e. it does not matter if the employee's salary is taxed at the maximum marginal rate) and can be divided by the number of "stipulated months" to determine the applicable tax bracket.

The number of "stipulated months" is based on the employee's working months in China during the grant to vest period, capped at 12 months. For instance, if an employee was deemed to be working in China for the full vesting period (which was more than 12 months) the share award income would be deemed to have been received in 12 equal portions and the highest marginal tax rate is that which would apply to 1/12th of the taxable amount without considering any other accumulated earnings.

Deferred income tax payment and reporting requirements

The circular also provides that in certain situations, the income tax may be paid through instalments over a maximum five-year period if the individual taxpayer is unable to settle his/her tax liability immediately, subject to the discretion of the local tax authority. This method of paying through instalments is only available for qualified employees working for qualified HNTEs.

Qualifying enterprises and individuals can determine an instalment payment plan, although the share income must still be reported to the tax authorities in the monthly withholding tax return by the 15th of the month following the month in which the tax point arises.

Local ruling in Hainan Province

The local tax bureau in Hainan has extended the availability of preferential tax treatment to stock options granted to employees in all unlisted companies in Hainan, not just HNTEs.

The Hainan ruling only refers to stock options and does not cover other types of share awards at this stage. The same method for calculating the preferential tax treatment outlined above would apply in this instance.

Deloitte's view

The new rules provide an opportunity for qualified HNTEs and individuals to enjoy preferential tax treatment on share awards.

Companies that believe their employees may benefit from the preferential tax treatment should conduct an internal assessment or seek professional advice on how to qualify and comply with the reporting and withholding requirements.

At this stage, Hainan is the only province that has extended preferential tax treatment on stock options to all unlisted companies by issuing a local ruling. This ruling is to some extent in contradiction with the national rules where preferential tax treatment is only available for stock options granted by listed companies. In this regard, we recommend that companies in Hainan that may want to apply the preferential tax treatment should pay close attention to local requirements.

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