**In this issue:**

## Belgium:
## Impact of the EU-Posted Workers Enforcement Directive

**Overview**

Over the last few months, several EU Member States have taken legislative initiatives in relation to cross-border posting of employees. This accelerated implementation of new legal rules and formalities affecting posted workers is the result of the implementation of the Posted Workers Enforcement Directive (2014/67) (the "Enforcement Directive") into the national legislation of EU Member States.

This Enforcement Directive was introduced back in 2014 to enhance the practical execution and application of the Posted Workers Directive (96/71), the main goal of which is to protect the social rights of posted workers and, thus, avoid social dumping within the framework of free movement of services within the European Union. To that purpose, the Posted Workers Directive now requires employers and assigning employees to comply with a nucleus of labor law obligations applicable to the host country (e.g., minimum wage, working time, rules regarding health and safety, etc.).

In practice, however, effective compliance with the Posted Workers Directive's protective rules is not always that straight forward, mainly due to lack of efficient control and enforcement procedures in most EU Member States. Hence, the Enforcement Directive's introduction provides a better framework for enforcement, including inspection services that should lead to increased compliance with the Posted Workers Directive. The due date for implementing the Enforcement Directive into national legislation was set at June 2016. Some EU Member States have met the deadline, but others are still working on the implementation of required legal measures and formalities.

**Deloitte's view**

One of the specific control measures already implemented in several EU Member States relates to the introduction of a notification obligation for assignments into the host country, whereby the host country administration needs to be informed (often in advance) of certain assignment details. Belgium has applied such notification procedures since 2007 through the Limosa Declaration. Several other EU Member States introduced similar notification systems in the past. In this respect, it should be noted that sanctions for noncompliance are also foreseen for all countries already applying or having recently introduced such notification duty.

Moreover, although this notification duty has been established within an EU legislation framework, recent national implementation rules in some EU Member States clearly extend the notification obligation to employees being posted from non-EU countries. For these EU Member States, the notification procedures actually represent a new immigration formality. Hence, an EU Directive that was mainly designed to improve the protection of posted workers' social rights appears to also bring a noteworthy impact on immigration matters in certain EU Member States.

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## Hong Kong:
## Pre-arrival registration for Indian national visitors

**Overview**

Indian passport holders currently are not required to complete pre-arrival registration before they visit Hong Kong – they may enter Hong Kong as visitors with their Indian passports, visa free, and stay for a maximum of 14 days.

This will change on 23 January 2017. As from that date, Indian passport holders who intend to visit Hong Kong will be required to complete an online pre-arrival registration before starting travel to Hong Kong. Upon arrival, they will need to present (1) a printed Notification Slip for Pre-arrival Registration for Indian nationals, and (2) a valid Indian passport. Failure to complete the pre-arrival registration could result in airlines refusing to let passengers travel.

The new rules will not affect the ability of Indian nationals to travel visa free for a maximum of 14 days per entry.

**Exemption**

The pre-registration will be applicable only to Indian travellers to Hong Kong – it will not be required for Indian nationals who already hold a visa to enter Hong Kong (i.e. visitor visa or employment visa).

The following Indian passport holders will not have to complete pre-registration:

1. Holders of valid Indian diplomatic or official passports;
2. Holders of UN Laissez Passer coming to Hong Kong or transiting Hong Kong to/from a third country for official UN business;
3. Individuals successfully enrolled for the e-Channel service for frequent visitors;
4. Holders of a valid Hong Kong Travel Pass;
5. Holders of valid Hong Kong entry visas (such as visitor visas) / resident visas (e.g. employment / dependent / training visas) / resident status (such as unconditional stay / permanent residents); and
6. Members of operating air crews or operating / contract sea crews.

**Registration process**

The pre-arrival online registration system launches on 19 December 2016. The process is free and requires no lead-time for approvals.

**Things to note**

When completing the pre-arrival registration:

- Ensure the Indian passport is valid for at least six months from the date of registration;
- Ensure all information provided is correct; and
- Create an “Identification Question” for accessing registration in the future (this cannot be reset).

When pre-arrival registration is successfully completed:

- Save a copy of the Notification Slip for Pre-arrival Registration in case the slip is lost, defaced, or damaged (instead of having to access it via the registration system);
- Print the notification slip on A4 single-sided white paper; and
- Keep the notification slip with the passport used to obtain the slip.

When visiting Hong Kong per trip:

- Present the notification slip, along with the Indian passport used to obtain the slip.

**Validity**

The Notification Slip for Pre-arrival Registration is valid for six months, or until there is a change to the Indian passport that was used to obtain the slip (e.g. passport renewal or change in personal data in the passport).

A new pre-arrival registration may be completed when the current slip becomes invalid.

The issuance of a Notification Slip for Pre-arrival Registration will not guarantee the Indian passport holder’s entry to Hong Kong as a visitor. He/she still must fulfil all immigration control requirements, including being a bona fide visitor, have adequate funds to cover the stay in Hong Kong without working, and holds onward / return tickets.

For detailed information, please visit the Immigration Department's FAQs on this topic.
**URL:** https://webapp.immd.gov.hk/content_ver2/indianparreg/html/english/indianpar_faq_page1.html

**Deloitte's view**

These changes do not impact individuals entering Hong Kong under a valid visa (i.e. employment visa or a full visitor visa). As with similar systems for entry into Canada or the US, genuine visitors should not have any difficulties in completing the pre-arrival formalities.

Companies should remind Indian passport business travellers to ensure that their passports are valid for at least six months, and to complete the pre-arrival registration before their trips to Hong Kong.

Based on our discussions with the Immigration Department, there are no current plans to extend this pre-registration process to other nationalities.


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## Hong Kong:
## Training Visa Policy Relaxed for Vietnamese Nationals

**Overview**

The Hong Kong government has revised its training visa policy relating to Vietnam passport holders.

Previously, Vietnamese nationals were not eligible to apply for a Hong Kong training visa, but as from 14 November 2016, such individuals may attend training or participate in internships in Hong Kong in order to acquire knowledge and experience, provided they meet the relevant eligibility criteria. Training visas typically are valid for a maximum period of 12 months.
**URL:** http://www.immd.gov.hk/eng/services/visas/training.html

Other than training visas and dependent visas, Vietnamese nationals are not eligible to apply for resident visas, such as employment visas and employment (investment) visas. They also continue to be required to secure visitor visas before visiting Hong Kong.

**Deloitte's view**

The relaxation of the training visa policy for Vietnamese nationals is in line with the 2016 policy address of the Chief Executive Mr. C. Y. Leung to implement the Belt and Road Initiative, strengthen cooperation on the political, economic, and cultural fronts with Belt and Road countries and attract overseas talent.

Based on discussions with the Immigration Department, the department will continue to review its policy and roll out changes as and when appropriate.


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## Ireland:
## PAYE year-end compliance 2016: Six things to consider

### PAYE Settlement Agreement (PSA) – 2016

As the 2016 tax year draws to a close, employers should consider how to account for any taxes due on minor and irregular benefits they may have awarded to employees and which have not already been reported via the payroll. Applications to account for the tax on minor and irregular benefits via a PSA for 2016 must be made to Revenue by 31 December 2016. Further details are set out in the attached brochure, which you can access online.
**URL:** http://deloitteireland.cmail19.com/t/d-i-dhulql-nuttrijs-j/

### P35 end-of-year reporting for 2016 and 2015

Although the 2016 P35 filing deadline is not until 15 February 2017 (or 23 February 2017 for online filing), employers should take the opportunity now, in the last month of 2016, to review and regularize the payroll to ensure all items of pay (cash and noncash) are captured and taxed correctly so as to avoid any late payment interest charges and penalties. This is especially relevant where shadow payrolls are being operated for expatriate employees, as it provides an opportunity to regularize the payroll before year end, thereby allowing the employer to ensure compliance with the PAYE regulations.

In addition, the end of the self-correction period for any adjustments to the 2015 P35 is also approaching on 15 February 2017 (or 23 February 2017 for online filing), and any required adjustments should be addressed in the next few months in order to avoid penalties and the voluntary disclosure process.

As part of your review of the payroll and P35, you may wish to consider undertaking a PAYE health check in order to identify and rectify any anomalies with Revenue. This process gives employers comfort that their PAYE position is up to date in the event of a Revenue audit.

### 2016 Share Scheme reporting requirement

For unapproved share option plans, employers are obliged to report on Form RSS1, the grant, release, assignment, and exercise of options during 2016 to Revenue by 31 March 2017. The form must be submitted in an electronic format. For Revenue approved plans, the following forms must be submitted to Revenue by 31 March 2017:

- **Form ESS1:** Approved Profit Sharing Scheme (APSS);
- **Form ESOT1:** Employee Share Ownership Trust (ESOT); and
- **Form SRSO1:** Save As You Earn Scheme (SAYE).

### 2016 Special Assignee Relief Programme (SARP) reporting requirements

Where SARP relief is being claimed by an employee, the relevant employer is required to make an annual return to Revenue, providing the following items for each relevant employee:

- Name and PPS number;
- Nationality;
- Country in which the relevant employee worked for the relevant employer prior to his/her first arrival in the state to perform duties of the relevant employment;
- The gross employment income less pension contributions and amounts not assessed to tax in the state;
- Costs associated with an annual return trip to the country of residence or nationality for the employee and/or family; and

- School fees paid or reimbursed in respect of children of the relevant employee attending an approved school in the state.

The relevant employer or associated company must provide details of the increase in the number of employees, as well as details of the number of employees retained by the company as a result of the operation of the relief. The return must be made on or before 23 February 2017 for the 2016 tax year.

**Changes to P35 reporting for 2017**

Employers must be aware that, effective 1 January 2017, additional information will be required to be included in the end of year P35 return, which will need to be filed in February 2018. The additional information required relates to the following items:

- **Company Share-Based Remuneration:** This is share-based remuneration consisting of shares in the employer company or a company that controls the employer company that is included in "taxable pay" and taxed via payroll, e.g., restricted stock units. Stock options are not currently included in taxable pay.
- **Taxable Benefits:** This relates to the amount of noncash benefits other than company share-based remuneration that is included in taxable pay, e.g., the private use of a company car, free or subsidised accommodation, preferential loans, etc.

The position of these two new fields will be included in the P35 Schema document that Revenue will issue shortly.

**Small benefit exemption**

Employers can provide tax-free vouchers/gifts to staff up to the value of €500 (known as the small benefit exemption). Further details are set out in the attached brochure, which you can access online.
**URL:** http://deloitteireland.cmail19.com/t/d-i-dhulql-nuttrijs-t/

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## Italy:
## Secondment of personnel to Italy from foreign countries: Main provisions

**Overview**

Legislative Decree n. 136/2016 established new obligations for foreign employers sending employees to Italy, within a provision of services, in order to implement European directives 96/71/EC and 2014/67/EU on the international movement of employees within the European Union (EU).

**Main provisions**

The above-mentioned legislation, adopted in July 2016, required a Ministerial Decree in order to provide instructions on the new obligations that foreign companies must fulfil.

The Decree of the Ministry of Labour of August 10, 2016, was published in the Italian Official Journal on October 27, 2016, and established the operational standards and rules of transmission to notify the new secondment of both EU and non-EU employees.

As a matter of fact, the new procedure, that Legislative Decree n. 136/2016 introduced, will enter into force on December 26, 2016.

Under the new legislation, sending companies, as well as employment agencies, based both in an EU member state or in a third country, shall file, within 24 hours before the starting date of the secondment, an online communication through the specific “Modello UNI distacco_UE” form, which is available on the website of the Italian Ministry of Labour. In order to file the form, foreign employers are required to register on the Ministry website.

In the same form, besides information on the assignee and the Italian assignment, it is also necessary to indicate, for the foreign company, a reference contact pointing out the following individuals:

- One who has an elected domicile in Italy and who is in charge to receive acts and documents related to the secondment;
- One with the power of attorney in order to maintain relations with the social parties interested in promoting the company collective bargaining.

Foreign companies are also required to store several mandatory documentation on the assignee, such as a copy of the employee’s labor contract or an equivalent document that defines the working relationship between the assignee firm and the employee (e.g., an employee’s payslips).

**Penalties**

In case of noncompliance with the above-mentioned administrative obligations, the following penalties will apply:

1. A violation regarding the preliminary communications and any amendment communication fulfilment: penalties vary from € 150 to € 500 for each employee in assignment;
2. A violation regarding mandatory documentation to be stored: penalties vary from € 500 to € 3.000 for each employee in assignment;
3. A violation regarding the appointment of the assignee (foreign) firm’s representative: penalties range from € 2.000 to € 6.000.

In any case, overall sanctions for points (1) and (2) cannot be higher than € 150.000.

**Deloitte’s view**

The entry in force of the procedure introduced by Legislative Decree n. 136/2016, as clarified by Ministerial Decree of August 10, 2016, obliges both EU member state and third-country companies sending employees to Italy, to promptly inform the Italian Ministry of Labour on employment conditions applied to assignees.

As anticipated, the new procedure derives from European directives and, under Legislative Decree 136/2016, also companies established outside the EU, which are sending employees to Italy, are subject to the new provisions.

As of December 26, 2016, foreign companies will need to appoint an Italian reference person in order to correctly manage the filing obligations.

Considering the overall new process, we may expect official clarifications by the Italian authorities in order to allow EU and extra-EU companies sending employees to Italy to observe the above-mentioned obligations.

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## Italy:
## Secondment of personnel to Italy from foreign countries: New procedure

**Overview**

Legislative Decree n. 136/2016 established new obligations for foreign employers sending employees to Italy, within a provision of services, in order to implement European directives 96/71/EC and 2014/67/EU on the international movement of employees within the European Union (EU).

### Update

The legislation provides a new procedure, according to which sending companies, as well as employment agencies, based both in an EU member state or in a third country, shall file, within 24 hours before the starting date of the secondment, an online communication through the specific “Modello UNI distacco_UE” form.

The Italian Labour Inspectorate, with Circular Letter n. 3 of December 22, 2016, has provided clarifications on the new procedure.

With reference to the entry being in full force, the Italian Authority took the following measures:

- Confirmed that for assignments started as of December 26, 2016, foreign companies need to file the online communication under the ordinary process and deadlines; and
- Established that secondments initiated after July 22, 2016, and still ongoing on January 26, 2017, fall under the new procedure.

In this latter case, the communication has to be filed by January 26, 2017.

In order to file the retroactive communication (for assignments started after July 22, 2016), the ad hoc procedure provided in case of temporary malfunctioning of the Labor Ministry website should be followed.

Alternatively, it has been clarified that the extension does not apply to the following:

1. Secondments initiated after July 22, 2016, and terminated before January 26, 2017; and
2. Secondments initiated before July 22, 2016.

The contents of the form, the additional document-storing requirements, and the penalty system remain unchanged as described in the previous NewsFlash editions.

### Deloitte’s view

The entry in force of the procedure introduced by Legislative Decree n. 136/2016 requires that both EU member state and third-country companies sending employees to Italy promptly inform the Italian Ministry of Labour on employment conditions applied to assignees.

The new procedure will apply to employees assigned to Italy as of December 26, 2016, and retroactively with reference to secondments initiated after July 22, 2016, and ongoing as of January 26, 2017.

As anticipated, the new procedure derives from European directives and – under Legislative Decree 136/2016 – also notes that companies established outside the EU that are sending employees to Italy are subject to the new provisions.

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## Korea:
## 2017 income tax law revisions approved by National Assembly

### Overview

On December 2, 2016, the Korean National Assembly approved proposed income tax law revisions. The following is a selection of 2017 tax law revisions relevant to global employer services.

### Changes to the application of the flat income tax rate for foreign employees

Under the Tax Incentives Limitation Law, foreigners are allowed a flat income tax rate election as an alternative to regular, progressive income tax rates when calculating individual income tax liability on earned income. If elected, a flat rate of tax may be applied to gross earned income, with no deductions, income exclusions, or tax credits allowed, in lieu of the regular, progressive individual income tax rates, which range from 6% to 40% (6.6% to 44%, including local income tax surcharge).

**Effective January 1, 2017 – Change to the flat income tax rate:** In connection with numerous tax law revisions designed to achieve fair and equal taxation, the Ministry of Strategy and Finance (MOSF) has approved increasing the flat income tax rate to 20.9% (including local income tax surcharge of 1.9%) from 18.7% to decrease the taxation disparity between Korean nationals and foreign taxpayers.

**Effective January 1, 2017: Limited period for application of flat income tax rate election:**

- Application of the flat income tax rate election is limited to a maximum of five (5) years from the start date of Korean employment (only applicable through December 31, 2018), if started prior to December 31, 2018.
- For cases in which a foreign employee began working in Korea prior to January 1, 2014, the flat income tax rate election will be allowed until the end of 2018, even if five (5) years have elapsed from the date of the employee's commencement of work in Korea.

### Top marginal income tax rate increased

Currently, the top rate for individual income tax is 38% (41.8%, including local income tax surcharge), which is applied to taxable income over 150 million KRW. Starting on January 1, 2017, the top individual income tax rate will increase to 40% (44%, including local income tax surcharge) on taxable income over 500 million KRW.

### New exit tax introduced

The new tax law revision also introduced an exit tax, effective January 1, 2018, in an effort to prevent offshore tax avoidance by tax residents who are going to be breaking tax residency through permanent departure from Korea (i.e., immigration). Please see below for more details:

- The exit tax is applicable to tax residents permanently leaving Korea who meet both of the following criteria:
  - Maintained permanent residence in Korea for a minimum of five (5) years in the ten (10) years leading up to the date of permanent leave; and
  - Considered a major shareholder of a domestic company, owning more than 1% of all shares valued at 2.5 billion KRW or more at the end of the preceding business year.
- When a tax resident meeting the above conditions breaks residency, the taxpayer is deemed to have disposed of relevant domestic shares on the final day of residency, and the deemed gain is subject to a tax rate of 22% (including local income tax surcharge).
- For the time being, only sales of shares in domestic companies are subject to exit tax (this may change in the future).
- The exit tax needs to be reported and paid within three months, starting from the last day of the month of expatriation. If not complaint, the person may be assessed a 20% non-reporting penalty.
- The exit tax assessment can be deferred for five years, if a tax agent is appointed or collateral is posted.
- Tax credits are available if any foreign taxes are paid on the gain or any loss is subsequently realized pursuant to the disposition of the shares.
- If the taxpayer returns to Korea to establish tax residency within five years of departure, any exit taxes paid will be refunded.

### Deloitte's view

Companies should consider a relevant tax reimbursement cost increase for expatriates working in Korea. Additionally, companies should be very careful to withhold relevant income tax using the increased flat income tax rate and the increased top tax rate for high-income earners.

The exit tax may not have an apparent impact on many foreign nationals assigned to Korea, but it is advisable for expatriating Korean nationals and foreigners who spent significant amounts of time in Korea to check to see if they have exit tax filing requirements.

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## The Netherlands:
## New income thresholds for Highly Skilled Migrants

**Overview**

As of January 1, 2017, the salary thresholds for Highly Skilled Migrants (HSM) in the Netherlands will change to the following gross monthly amounts (excluding 8% holiday allowance):

- Highly Skilled Migrants 30 years or older: €4.324;
- Highly Skilled Migrants younger than 30 years: €3.170;
- HSM subsequent to graduation in the Netherlands or after search year/highly educated persons: €2.272; and
- European Blue Card Holders: €5.066.

The new salary thresholds apply to applications filed after January 1, 2017. For applications submitted in 2016, the current (2016) salary thresholds are applicable.

**Deloitte's view**

In order to meet the salary threshold, monthly salary components can be included that are gross, guaranteed, and paid directly into the bank account of the employee. Benefits in kind or nonguaranteed salary components (for example, a yearly performance bonus) cannot be included to meet the monthly salary threshold.

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## Taiwan:
## Premium rate and minimum bracket for labor insurance to be increased

**Overview**

Starting on January 1, 2017, the premium rate for labor insurance will increase to 9.5% of employee wages. Due to the increase in the minimum wage from NT$20,008 to NT$21,009, effective on January 1, 2017, the income tiers and brackets for the schedule of insured salary for the labor insurance premium will be adjusted as well.

**Summary**

Starting on January 1, 2017, the premium rate for labor insurance will increase from 9% to 9.5% of employee wages. Payment of the premium will be split between the employer (70%), the employee (20%), and the government (10%). After the change, the premium rates for the employer, the employee, and the government will be as follows:

| Employer Rate | Employee Rate | Government Rate |
|---|---|---|
| 6.65% | 1.9% | 0.95% |

Due to the increase in the minimum wage from NT$20,008 to NT$21,009, effective on January 1, 2017, the Ministry of Labor announced that the income tiers and brackets for the schedule of insured salary for the labor insurance premium will be adjusted as follows:

- The minimum bracket will be adjusted to include incomes up to NT$21,009. It will include the current income tier one (NT$20,008), income tier two (NT$20,100), and income tier three (NT$21,000), which will be combined together into an adjusted income tier one.
- The current income tier four (NT$21,900) will become the adjusted income tier two, as well as the starting point for the second bracket.

After the adjustments, the schedule of insured salary will consist of 18 levels, with the lowest level set at NT$21,009 and the highest level set at NT$45,800.

In accordance with the change to the minimum bracket, the Bureau of Labor Insurance will automatically adjust the monthly insured salary for the following people starting on January 1, 2017:

1. People whose monthly insured salary as of December 2016 was NT$20,008 and who were full-time workers aged 16 years old or older on January 1, 2016;
2. People whose monthly insured salary as of December 2016 was NT$20,100; and
3. People whose monthly insured salary as of December 2016 was NT$21,000.

**Deloitte's view**

Employers should not only pay attention to the minimum monthly wage hike, but also to related adjustments to the labor insurance premium.

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## Taiwan:
## Personal Exemption and Tax Brackets for 2017 Individual Income Tax

**Overview**

In accordance with the Taiwan Income Tax Act, if the consumer price index (CPI) increases by at least 3% compared to the last CPI adjustment, the Taiwan Ministry of Finance (MOF) will adjust the tax brackets and personal exemption amounts for resident individuals in Taiwan. Based on the above, starting in 2017, the personal exemption amounts and tax brackets for Taiwan residents will change as follows:

**Personal exemption amounts**

| | |
|---|---|
| Taxpayer, spouse, and dependent | NT$88,000 (per person) |
| Taxpayer, spouse, and lineal ascendant who is 70 years old or over | NT$132,000 (per person) |

**Progressive tax rates for resident individuals** *(NT Dollar)*

| Net Taxable Income | | Tax Rate | Progressive Difference |
|---|---|---|---|
| From | To | | |
| 0 | 540,000 | 5% | 0 |
| 540,001 | 1,210,000 | 12% | 37,800 |
| 1,210,001 | 2,420,000 | 20% | 134,600 |
| 2,420,001 | 4,530,000 | 30% | 376,600 |

| Net Taxable Income | | Tax Rate | Progressive Difference |
|---|---|---|---|
| From | To | | |
| 4,530,001 | 10,310,000 | 40% | 829,600 |
| 10,310,001 | UP | 45% | 1,345,100 |

**Deloitte's view**

These adjustments to Taiwan's tax brackets and personal exemptions are aimed at lowering the tax burden of resident individuals in Taiwan. However, nonresident individuals will not be able to benefit from these adjustments.

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## Taiwan:
## The impact of the Amended Labor Standards Act

**Overview**

The Labor Standards Act has been amended recently in order to adopt a two-day weekend system, and the regular working hours have been reduced from 84 hours every two weeks to 40 hours a week.

One amendment is that a worker should have at least two days off, including one fixed day off and one flexible rest day, in every seven days. The other amendment is to remove seven national holidays for the workers who are entitled to two days off.

The major changes mentioned above, as well as those below, will take effect on January 1, 2017.

**Annual leave**

A worker who continues to work for the same employer or business entity for a certain period of time should be granted special leave on an annual basis according to the following time table:

| Years of Service | Amendment | Current |
|---|---|---|
| 6 months or more but less than 1 year | 3 days | - |
| 1 year or more but less than 2 years | 7 days | - |
| 1 year or more but less than 3 years | - | 7 days |
| 2 years or more but less than 3 years | 10 days | - |
| 3 years or more but less than 5 years | 14 days | 10 days |
| 5 years or more but less than 10 years | 15 days | 14 days |
| 10 years or more | 1 additional day for each year of service more than 10 years up to a maximum of 30 days | 1 additional day for each year of service more than 10 years up to a maximum of 30 days |

Where annual leave have not been taken because of the end of the year or the termination of a contract, the employer should pay the worker wages for those days as outlined above.

**Overtime pay**

A worker should not work for more than 12 hours per day, and the total overwork time should not exceed 46 hours each month.

If a worker works overtime for less than two hours, the overtime pay should be at least an additional one-third of the regular hourly pay. If the overtime is more than two hours, the overtime pay should be at least an additional two-thirds of the regular hourly pay.

The working hours and the calculation of overtime pay for the rest day, for less than four hours of work, should be counted as four hours; four to eight hours of work should be counted as eight hours; and eight to 12 hours of work should be counted as 12 hours.

For example, assuming that the monthly wage of an employee is NT$72,000, his or her daily wage is NT$2,400 and his or her hourly rate is NT$300.

- If he or she works for one hour on their rest day, the working hours should be counted as four hours. Thus, the employer should give him or her overtime pay of approximately NT$1,800 (NT$300 x 1.33 x 2 + NT$300 x 1.67 x 2).
- If he or she works for six hours on their rest day, the working hours should be counted as eight hours. Thus, the employer should give him or her overtime pay of approximately NT$3,800 (NT$300 x 1.33 x 2 + NT$300 x 1.67 x 6).

**Deloitte's view**

Employers are required to review and update their annual leave rules and adjust the overtime pay in the coming year; if an employer violates the Labor Standards Act, it will be fined an amount of at least NT$20,000 and at most NT$1 million.

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## Taiwan:
## Exemption for retirement and severance payments received in 2017

**Overview**

The Ministry of Finance (MOF) issued a tax ruling on December 7, 2016, to announce that the exemption amount of retirement and severance payment received in 2017 has been increased, as described below.

1. If the payment was received in one lump-sum amount, the exemption is calculated as follows:
    a. If the amount received is less than NT$180,000 multiplied by the number of service years, the total income amount will be entirely exempt;
    b. If the amount received is more than NT$180,000 multiplied by the number of service years, but less than NT$362,000 multiplied by the number of service years, only half of the excess over the amount of NT$180,000 multiplied by service years will be taxable;
    c. If the amount received is more than NT$362,000 multiplied by the service years, then the taxable amount is as follows (Note: Any fraction of a year that is less than six months should be counted as half a year of service, and over six months should be considered as one whole year of service.):

       (Amount received – $362,000 X service years) + ($362,000 – $180,000) X service years X 0.5 = taxable amount

2. If the payment is made in installments, the exemption amount per year is capped at NT$781,000.

**Deloitte's view**

When the retirement or severance payment exceeds the exemption amount, the company should verify the taxable retirement or severance income, and issue a withholding statement to the employees and report it to the Taiwan tax authority accordingly.

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## United States:
## FinCEN announces extended deadline to file foreign bank account forms

**Overview**

On December 16, 2016, the Financial Crimes Enforcement Network (FinCEN) announced that filers who fail to meet the new annual April 15 deadline to file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), will be granted automatic extensions to October 15 each year. Specific requests for this extension are not required.

The filing deadline for calendar year 2016 is April 18, 2017 (or October 16, 2017, with the extension), consistent with the initial federal individual income tax return due date. Note that the FBAR form must be electronically filed with the US Department of the Treasury by the extended filing deadline.

Additionally, FinCEN issued FinCEN Notice 2016-1 to extend the filing deadline to April 15, 2018, for certain individuals with signature authority over, but no financial interest in, one or more financial accounts.
**URL:** https://www.fincen.gov/sites/default/files/2016-12/FBAR%20Notice%202016%20%28FINAL%2012-8-16%29_0.pdf

**Filing deadline extended**

The deadline to file FBAR was previously June 30, with no extensions available. Public Law 114 41, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the "Act"), changed the FBAR filing due date from June 30 to April 15 for tax years beginning in 2016 to coincide with the filing deadline for federal individual income tax returns. The Act also permitted a six-month extension of the filing deadline, making the final deadline October 15 (October 16 for calendar 2016 filings). However, it was unclear how to apply for and obtain such an extension.

Guidance regarding the filing deadline and the extension process has now been released by FinCEN. This guidance states that both individuals and entities with FBAR filing obligations will be granted automatic extensions to October 15 to file their FBAR forms, with no extension form required, regardless of whether the filer's federal income tax return is extended.

**Accounts with signature authority, but no financial interest**

For the past four years, FinCEN has provided a deferral for the filing of FBAR forms to certain employees or officers of entities regulated by the Securities and Exchange Commission (SEC), such as US publicly listed companies, if such employees only have signatory authority over, but no financial interest in, one or more financial accounts of their respective companies.

On March 10, 2016, FinCEN issued a notice of proposed rulemaking (NPRM) that proposes to revise regulations around the filing requirements for such individuals. In light of these proposed changes, FinCEN Notice 2016-1 was issued to further extend the filing deadline to April 15, 2018, for individuals with signatory authority over, but no financial interest in, one or more of a company's financial accounts. Individuals who do not meet this exception must file their FBAR forms by April 18, 2017 (or October 16, 2017, with the extension).
**URL:** https://www.fincen.gov/sites/default/files/2016-12/FBAR%20Notice%202016%20%28FINAL%2012-8-16%29_0.pdf

**Deloitte's view**

The FinCEN announcement provides clarification around the extension procedures for FBAR filings. The automatic FinCEN Form 114 extension relieves taxpayers of the risks and administrative burdens related to having to file a FinCEN Form 114 extension. Additionally, the initial FBAR filing deadline of April 18, 2017 (as opposed to Saturday, April 15, 2017) further simplifies the filing process by aligning the original filing deadline with the federal income tax return deadline of most filers.

Despite the additional six-month extension, filers are encouraged to submit their FBAR filings at the same time as their federal income tax returns to optimize the ease of gathering and processing their information. Taxpayers with FBAR requirements may also have additional information reporting requirements related to their federal income tax returns, so it is important to gather foreign bank account information when preparing federal income tax returns.

FinCEN has not released formal guidance on whether an additional two-month extension will be allowed for filers living abroad, similar to the additional extension for filing federal income tax returns provided to US citizens and residents with overseas tax homes. While this additional extension is a possibility, taxpayers should proceed on the basis that this additional extension will not be available and should aim to complete their 2016 FBAR filings by October 16 until further guidance is provided by FinCEN.


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## Global Rewards Updates:
## People's Republic of China: Favorable tax treatment extended to more equity compensation plans / contributions of technology

**Overview**

China's Ministry of Finance (MOF) and the State Administration of Taxation (SAT) jointly issued a circular on 20 September 2016 (Caishui [2016] No. 101 (Circular 101)) that provides detailed guidance on the preferential individual income tax (IIT) policies relating to equity compensation plans (i.e. stock options, restricted and unrestricted stock awards) and capital contributions made to a Chinese company in the form of technology. On 28 September 2016, the SAT issued Bulletin 62 to provide further guidance on the implementation of Circular 101. Both Circular 101 and Bulletin 62 apply as from 1 September 2016.

The key IIT incentives provided in the new rules on equity compensation plans are as follows:

- Favorable IIT treatment is extended to equity compensation plans offered by unlisted companies; specifically, taxation of qualified equity awards granted to employees may be deferred until the time the employee disposes of the equity;
- Equity compensation plans offered by companies listed on the Shanghai and Shenzhen stock exchanges continue to benefit from the tax treatment provided in earlier guidance, but Circular; and
- Favorable IIT treatment is offered to investors that makear 101 extends the period for the individual to settle the tax due; and equity investments in Chinese companies using achievements in technology.

**Key implications**

**Equity compensation plans offered by non-listed company in China**

Prior to Circular 101 and Bulletin 62, preferential IIT treatment was available only for equity compensation plans offered by listed companies and qualifying high-tech companies (discussed below). For employees of most unlisted companies, the relevant income derived from these plans was subject to Chinese IIT as "employment income" at the time of exercise/vesting at a progressive tax rate ranging from 3% to 45%. Capital gains realized at the time of disposal of the relevant equity were subject to tax as a "transfer of property" at a flat rate of 20%.

The new guidance, however, provides for deferred taxation on income derived from qualified equity compensation plans (including stock options and restricted and unrestricted stock awards) granted by unlisted domestic companies.

**Qualified Plans:**

- **Tax deferral point:** Unlike the previous treatment, under which income derived from equity compensation plans was taxed separately as employment income and capital gains at two different points of taxation, Circular 101 provides that the taxation of income can be deferred to the time the relevant equity is sold; thus, the income will be taxed only as a "transfer of property" at a flat rate of 20% at the time of sale. Taxable income for these purposes is defined as the gross proceeds from the sale of the equity reduced by the original cost (e.g. the exercise price paid by an employee) and reasonable taxes and expenses incurred. The impact of deferred taxation could be significant: it will benefit employees that may not have sufficient cash flow to pay tax at the time the option is exercised or the restricted stock is vested, and will reduce the tax burden by applying a flat rate of 20%.
- **Qualifying industries:** Circular 101 introduces a "negative list" of industries in which companies operating in a listed industry will not be able to apply for the deferred treatment for its employees. Industries on the negative list include real estate development, wholesale and retail sales, accommodations and catering, etc.
- **Conditions:** Circular 101 sets out a number of requirements that must be met for an equity compensation plan to qualify for the deferred treatment:
    - The individual receiving the award must be employed by a Chinese entity;
    - The plan must be approved by the company's board of directors and shareholder meetings (or by the relevant government authorities where no shareholder meeting has been set up for certain state-owned companies);
    - The underlying shares of the plan must be those of the granting company, i.e. if the plan grants shares of the company's affiliates, the plan will not qualify for deferral treatment (however, for stock award plans, the underlying shares may be shares of other Chinese entities that were acquired by the granting company in exchange for contributions relating to achievements in technology);
    - The eligible participants in the plan must be core technical personnel and senior management employees determined by the board of directors or shareholder meetings, and the total number of participants cannot exceed 30% of the average active employee population in the previous six months;
    - The shares must be held for a minimum period, as follows:
        - For stock options, the period between the grant date and the sale date must be three years or more, and the shares must be held for one year or more after the employee exercises the option;
        - For restricted stock awards, the shares must be held for three years or more from the grant date, and one year or more after the restriction lapses or is removed; and
        - For unrestricted stock awards, the shares must be held for three years or more.
    - For stock option plans, the period between the grant date and the exercise date cannot be longer than 10 years; and
    - The business of the relevant company cannot be in one of the industries on the negative list, determined by reference to the main business revenue of the company in the previous year.

If a plan fails to meet all of the above requirements, deferred taxation will not apply and the equity income will be taxed as income from a nonqualified plan.

**Nonqualified Plans:** Where employees acquire shares from their employer at a price lower than the fair market value (FMV), but the equity compensation plan does not qualify for deferred taxation, the income derived from the "non-qualified" equity compensation plan (i.e. the difference between the lower acquisition price and the FMV) must be taxed at the time the shares are acquired. However, Circular 101 provides for a special method to calculate tax due (initially introduced by Caishui [2005] No. 35 (Circular 35) for listed companies) in this situation, under which the income may be divided by the "number of stipulated months" in the vesting period (capped at 12), to determine the applicable tax bracket.

Although less favourable than the deferred taxation method available for qualified plans, the application of the special tax calculation method may be beneficial to nonqualified plans, if compared to the previous treatment under which all of the equity income would be added to the normal salary, likely resulting in a much higher marginal tax rate for the relevant month.

**Equity compensation plans offered by companies listed in China**

The tax treatment of equity compensation plans offered by listed companies basically remains unchanged (i.e. the rules under Circular 35 continue to apply). Employees will be taxed at the time an option is exercised (for stock options) or when a restriction lapses or is removed (for restricted stock awards), and the relevant income will be taxed as employment income, but separately from the normal salary, under the preferential tax calculation method provided in Circular 35.

However, for equity plans over China listed companies, Circular 101 offers one favourable development for senior executives. Since such individuals may not have sufficient cash to pay the tax when exercising the option, the previous guidance required the tax to be paid in instalments over a six-month period where the income derived from qualifying equity plans offered by companies listed on the Shanghai and Shenzhen stock exchanges. Circular 101 extends the instalment period from six to 12 months.

**Capital contributions made in the form of technology achievements**

Where a taxpayer makes a capital contribution to a Chinese company in the form of a technology achievement, the taxpayer is considered to be disposing of the technology achievement for income tax purposes and, therefore, will be subject to tax on any gains derived from the disposal. However, an individual taxpayer may pay the tax in instalments over a five-year period, and a corporate taxpayer may spread the gains over five years for income tax purposes.

Circular 101 introduces a new deferral tax treatment for the situation described above, under which the taxpayer may elect to defer the tax until the disposal of the relevant shares. The taxable gains will be calculated by deducting the original cost of the achievement in technology, as well as any reasonable expenses and taxes, from the gross income derived from the sale of the shares. To qualify for the treatment, the technology achievement used for the capital contribution must be in the form of patented technology, software copyright, etc.

**Filing requirements**

Where a taxpayer elects for a type of tax deferral treatment provided by Circular 101, the relevant company must submit certain information and documents relating to the plan (e.g. the names of the participants, description of the plan, meeting minutes of the board of directors, etc.) to the competent tax authorities; otherwise, the deferral treatment will be denied.

Where the tax deferral treatment has been granted to an individual, the relevant company, acting as the IIT withholding agent, must submit an annual report detailing the relevant information until disposal of the underlying shares. The report must be submitted within 30 days of the subsequent year.

Once the IIT is triggered when the underlying shares are disposed of, the withholding agent and the taxpayer must provide documents to substantiate the income, original cost, expenses and taxes to the competent tax authorities for assessment purposes.

**Deloitte's view**

Circular 101 is a new benchmark for the favorable IIT treatment offered to equity compensation plans of Chinese companies. It provides substantial tax benefits to domestic resident companies that implement equity compensation plans, particularly unlisted companies. Before Circular 101, preferential tax treatment was available only to equity compensation plans granted by listed companies or stock awarded by qualifying high-tech companies. Circular 101 expands the scope of beneficial tax treatment and the potential beneficiaries:

- For qualifying equity compensation plans granted by unlisted companies (including companies whose shares are quoted on the NEEQ), taxation may be deferred to the time the relevant shares are sold, and a flat rate of 20% will be imposed on the gains. The preferential tax treatment offered in Circular 101 is mainly applicable for Chinese resident companies, although the Chinese subsidiaries of overseas companies are generally also recognized as Chinese resident companies from tax perspective, except for representative offices. For example, if a Chinese subsidiary of a US or UK company implements a qualified plan, the preferential treatment can be applied as well. However in normal practice, multinational companies may implement a global plan and participants receive shares of overseas companies while Chinese subsidiaries may not issue their own share plans.
- For nonqualified stock incentives acquired by employees from an unlisted employer, the special tax calculation method provided in Circular 35 may be applied; previously, this method applied only to plans offered by listed companies.
- For Chinese listed companies, the relevant tax payment on employment income derived from equity compensation plans by senior executives may be made in installments over a 12-month period, which is longer than that under the previous treatment.

To enjoy the preferential tax treatment described above, taxpayers and the relevant companies must comply with the tax filing and reporting requirements set out in Circular 101. It is worth noting that, according to Circular 101, the tax authorities will expand cooperation and information sharing with company registration authorities to ensure that tax can be timely collected when the underlying shares are disposed of.

Companies already operating equity compensation plans, or that are considering the rolling out such plans, should consider conducting an internal assessment or seeking professional advice on qualifying for the incentives, and comply with the reporting and withholding requirements.

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