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Brazil: Immigration updates

New Brazilian migration law

On November 21, 2017, the Law nº 13.445 (the new Brazilian Migration law) and the Decree to regulate this law was entered in force.

The following are some stipulations of interest for Brazilian migration purposes:

Electronic visa system

The Brazilian Ministry of Tourism issued a note informing that, from November 21, 2017 onward, an electronic visa system will be implemented for tourists from some countries wishing to visit Brazil.

The entire visa process will occur electronically and the visa shall be issued within 72 hours of the request being filed, which makes the visa-issuing process more expeditious, preventing the applicants from having to visit a visa center to apply for or collect the visa. According to the Minister of Tourism, the measure aims to leverage the entry of foreign tourists in Brazil.

Electronic visa system – countries and dates

The electronic visa system is expected to be implemented in waves, starting with the following countries:

- Australia: November 21, 2017
- Canada: January 8, 2018
- United States: January 15, 2018
- Japan: January 22, 2018

The electronic visa process is expected to be extended for business; however, it is still a matter to be regulated.

Brazil's immigration actions abroad

There are ongoing negotiations to reciprocally exempt certain types of visas for Brazilians, Qataris, and Emiratis due to the relevance of such markets for each country.

China, which has the largest market of travelers in the world, has signed an agreement with Brazil for the issuance of tourist and business visas with a validity of five years.

Brazil will expand, at the beginning of next year, from three to 12 visa centers in China, which will expedite visa issuance.

Deloitte's view

The new law has been passed as an effort to attract individuals with needed skills and to modernize the visa process with the adoption of electronic visas.

The regulations to be edited will play an important role for the new law to achieve its objectives.

We have had various client events to discuss changes and anticipate the adjustments in processes to be implemented with the adoption of the new law.

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Germany: Church tax and foreign assignees

Overview

The German church tax, which applies to resident individuals who are members of certain officially recognized German churches, has existed long before cross-border secondments of employees became a common practice. The imposition of the tax has become a common issue for assignees coming to Germany because the tax authorities are increasingly challenging individuals who state that they are not members of a church (and, accordingly, are not subject to the

church tax). The tax authorities often consider such statements, which are provided as part of the individual's registration as a resident with the relevant municipal office, to be legally invalid and insufficient to prevent the individual from being subject to church tax if there is evidence of membership in the church (in Germany or in the home country).

Background

In Germany, unlike many other countries, members of most Christian churches and the Jewish community contribute to their religious organizations through a tax levied by the German tax authorities on behalf of these organizations. The tax is levied as a supplement to the income tax, wage tax, and withholding tax, and the rate varies between 8% and 9% of the income tax due, depending on the German state collecting the tax. The final church tax burden is determined and assessed together with the annual income tax notice.

All German resident individuals who are church members are subject to the tax. The determination of whether an individual is a member of a German church is governed by the rules of that church. The church tax itself and the relevant procedures are regulated by the church tax laws of the German states.

Relevance for inbound assignees

Many inbound assignees are unaware that they may be considered to have become members of a German church, even if they have not formally declared their membership, if they are affiliated with the church in their home country and establish a tax residence in Germany. Most obviously affected are Roman Catholics, who are considered to become church members (worldwide) by baptism. The same is true for many protestant churches, e.g., most Lutheran churches have bilateral or multilateral agreements in place providing automatic membership in the case of migration from the territory of one church to that of another.

Many individuals simply accept the tax because of their religious beliefs. For the remaining group of individuals, the only ways to avoid the tax liability are to break (or never acquire) German residence or to officially declare their exit from the church before the German authorities. The rules for this procedure slightly differ regionally from state to state. Since, under the terms of the relevant law, the effect of deregistration in a church is not retroactive – it applies only prospectively – it is advisable to immediately declare the exit from the church upon entering Germany.

Deloitte's view

German church tax can be a surprise issue for foreign assignees. It should be taken seriously, since the German tax authorities may challenge the position that an individual is not a member of a church – for example, they might ask the home country church for an excerpt from the baptismal register.

Exit from the church may be an option. No clear rules exist for how an exit could be effected in the home country before entering Germany; therefore, a quick exit upon arriving in Germany is recommended. If a short period of membership in Germany exists, a waiver of the tax may be possible.

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Hong Kong: Immigration: Foreigners allowed to enter Hong Kong to deliver speeches/presentations on visitor status

Overview

The Hong Kong Immigration Department has updated its website to provide that, with immediate effect, persons entering Hong Kong on visitor status are permitted to deliver speech (es)/make presentation(s) without having to obtain a separate employment visa.

URL: <http://www.immd.gov.hk/eng/faq/visit-transit.html>

Conditions

All of the following conditions must be fulfilled to avoid the employment visa requirement:

- He or she will not be remunerated for speaking/presenting at the event (other than provision of accommodation, passage, meals, etc., relating to the event, or the reimbursement of such expenses);
- The duration of the whole event should be no longer than seven days; and
- He/she can only attend one such event to deliver speech (es)/presentation(s) during each period of permitted stay.

Per our recent discussion with the Immigration Department, the relaxation of the employment visa requirement aims to facilitate the sharing of knowledge by professionals with businesses in all industries and sectors.

The following case study was discussed to illustrate the above

A doctor will be giving a presentation to three different universities in Hong Kong for the same event.

The doctor may enter Hong Kong as a visitor for this purpose if (a) the lump sum he receives from the organizers is to cover his costs and expenses for the event; (b) he will spend no more than seven consecutive days in Hong Kong to deliver his presentation; and (c) the presentation delivered at the three universities covers same or a similar topic.

If the doctor stays in Hong Kong for more than seven consecutive days, he will be required to re-enter Hong Kong, regardless of his permitted duration of stay in Hong Kong as a visitor under the current visa-free policy. If the topics to be presented differ for each university, the doctor will have to depart Hong Kong and re-enter as a visitor before giving the next presentation.

An employment visa may be required if the doctor earns his living as a speaker or if the lump sum he receives exceeds the amount needed to cover his travel, accommodation, meal costs, etc.

Deloitte's view

We believe the Immigration Department is taking steps to support the Belt and Road Initiative to strengthen Hong Kong's position as a talent hub and nurture talent for the local community (per the chief executive's 2017 policy address) by facilitating knowledge sharing by professionals. Companies can leverage this relaxation for business and talent development.

We have provided comments to the Immigration Department and understand that it will take into consideration feedback received from the industry/business and may revise measures, where appropriate.

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Indonesia: Imposition of income tax on undeclared assets following the tax amnesty law

Overview

In September 2017, to support the Tax Amnesty Law, the Indonesian Government (the "Government") issued Government Regulation Number 36 of 2017 (PP No. 36/2017) to explain the mechanism and calculation of income taxes related to the following:

1. For tax amnesty participants:
 - a. Offshore assets that are not repatriated to Indonesia within the timeline outlined in the Tax Amnesty Law, as well as repatriated and domestic assets that are not maintained in Indonesia for three years after the issuance of tax amnesty certificates.
 - b. Net assets that are either not disclosed or insufficiently disclosed on tax amnesty declarations.
2. For non-tax amnesty participants:
 - a. Net assets acquired from January 1, 1985 until December 31, 2015 that have not been declared on income tax returns, if the data related to such assets becomes available to the Directorate General of Taxation before July 1, 2019.

The following tax rates apply to the assets mentioned above:

Type of Taxpayer	Tax Rate (Final)	Notes
Corporate taxpayer	25%	
Individual taxpayer	30%	
Certain taxpayer	12.5%	Taxpayers whose income for the 2015 tax year was below the threshold mentioned in Article 4 of PP No. 36/2017

In addition to the above tax rates, the Tax Amnesty Law previously stipulated that penalties will apply to undisclosed assets. The penalty rates will depend on whether or not the respective taxpayer is a tax amnesty participant.

Deloitte's view

Following the momentum of the tax amnesty program, the Government's objective is to ensure that taxpayers fully comply with prevailing laws and regulations. Complete asset reporting is strongly viewed as an indicator of compliance; thus, incomplete asset reporting could have severe implications for the taxpayer.

Despite the increased focus on asset reporting, it is also important to remember that the main objective of the Tax Amnesty Law is to eliminate tax liabilities that should have been payable through the declaration of assets and payment of redemption money. Therefore, the application of PP No. 36/2017 by the Indonesian Tax Authority must be done within the Tax Amnesty Law's objective to capture assets obtained from income that was not taxed properly.

Taxpayers who do not participate in the tax amnesty program need to ensure that their income tax returns already include all of their net assets. If any assets were not yet reported on previous tax returns, we recommend revising the past years' tax returns to declare the unreported assets. At the same time, further review needs to be done to identify any income taxes that should be paid in relation to these additional reported assets.

Meanwhile, taxpayers who participate in the tax amnesty program must continue to invest their domestic and relocated assets in Indonesia for three years after the issuance of tax amnesty certificates and properly report the income generated from such assets on their individual tax returns.

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Singapore: Immigration update

Reminder from the Ministry of Manpower for all Work Pass holders to update residential addresses within 14 days

Currently, under the law, all Work Pass holders are required to update the MOM on any changes in residential address within 14 days from the change of the address.

The MOM has recently come across situations where Employment Pass (EP) and S Pass holders have changed their residential addresses, without informing the MOM and were also found to be residing in overcrowded residential premises.

In addition, some of the Work Pass holders have also indicated that they were residing in commercial buildings/offices that are not meant for residential purposes.

The MOM generally does allow the Work Pass holders to indicate their employer's office address if the pass holders are travelling extensively outside of Singapore for work and do not have a permanent residential address in Singapore.

In this regard, the MOM has issued notices to employers that they are to remind their EP and S Pass holders to update the MOM (and the employers), of any changes in their residential addresses within 14 days of the change of address. The update can be done easily via the Employment Pass Online (EPOL) on the same day by pass holders if he/she has a SingPass account. Otherwise, pass holders can get their employers to assist with the update on their behalf. Any pass holders who fail to update the residential address within the stipulated timeframe may be penalised. Repeat offenders may not be allowed to work in Singapore.

Additionally, employers also need to remind their employees on work passes to comply with the subletting requirements set by the Housing & Development Board (HDB) and Urban Redevelopment Authority (URA).

Similarly, the Work Pass holders should also update their mobile numbers and email addresses to enable the MOM to contact them quickly, during emergencies.

New Application Process for Singapore Permanent Resident (SPR) effective from December 18, 2017

Effective from December 18, 2017, the Immigration & Checkpoints Authority (ICA) will no longer accept the SPR applications over the counter. Eligible and interested applicants will need to apply for the SPR online via the Electronic Permanent Resident (e-PR) system.

The new e-PR system will allow applicants to provide the required information in the online application form. Supporting documents can also be scanned and submitted electronically.

	Existing System	New System (E-PR) Effective December 18, 2017
Appointment for Submission	Required	Not Required
Application Process	Manual submission of relevant documents over the counter at ICA	<ul style="list-style-type: none">• Online application via e-PR system• Applicant must have a valid SingPass account• Applicant needs to have a computer with Adobe Acrobat Reader installed and a camera or scanner
Processing Fee	No processing fee charged at the point of submission	<ul style="list-style-type: none">• S\$100 will be charged at the point of submission• Payment via Visa, MasterCard, AMEX Credit/Debit Card or eNets are accepted

	Existing System	New System (E-PR) Effective December 18, 2017
Entry Permit Fee for Successful Applications	S\$100 per entry permit	S\$20 per entry permit

The implementation of the new system does not change the application and assessment criteria. The standard processing time will remain at four to six months upon submission. It may take longer if the ICA requests for additional documents/information during the review of the application.

Currently, no more appointment slots will be released. Applicants who have already secured appointments are not affected and are able to file the SPR applications over the counter at the ICA and the new fee structure will apply from December 18, 2017 onwards.

Deloitte's view

Update of residential addresses: Although the update of residential address of the EP/S-Pass holders is an existing requirement, the MOM has discovered that many of such pass holders do not update the same. In view that some of the Work Pass holders have been found to be living in overcrowded accommodation and to enable emergencies contact alerts, the MOM has been issuing notices to employers to remind their EP/S-Pass holders on the requirement to update the MOM of the change in address, as well as to comply with subletting requirements set by the HDB and the URA. It is important that the update is done in a timely manner to avoid being penalized by the MOM.

The MOM has advised that it is not their responsibility to inform other government agencies on the update of residential addresses provided by the Work Pass holders. Hence, all Work Pass holders are reminded to notify other relevant government agencies such as the Inland Revenue Authority Singapore (IRAS), and the HDB, etc. separately, where relevant.

SPR new application process: The new e-PR system will simplify the SPR application process where applicants is no longer required to secure the appointment for submission as currently, it can be challenging trying to secure an appointment. There is no change in assessment criteria for the application of the SPR.

However, there will be a processing fee of S\$100 for each application and also the applicants are required to have a valid SingPass to be able to file the applications online. With the introduction of a processing fee, there will be additional costs for every application including re-application in situations where the application was previously not successful.

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United States: US tax reform achieves important milestones

Overview

US tax reform proposals continue to move quickly through the legislative process and achieved several important milestones this past week, including approval of the House bill, amendments to the Senate proposal, and approval of the Senate proposal by the Senate Finance Committee. Review a summary of the potential impacts of tax reform to company mobility and rewards programs, including a side-by-side comparison of the current proposals.

For more details on the latest steps in the legislative process and a detailed comparison of the current proposals, refer to *Tax News & Views*, November 17, 2017.

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/tax-reform-global-mobility-human-resources-considerations.html?id=us:2sm:3na:gjs:awa:tax:120117>

URL: http://newsletters.usdbriefs.com/2017/Tax/TNV/171117_1.html

Updates to provisions impacting mobility programs

An amendment to the original Senate proposal would “sunset”, after 2025, the changes to the individual side of the tax code included in the original proposal, including marginal rates and changes to credits and deductions as noted below. Absent action by Congress in a later year, these provisions would expire after 2025 and the individual tax rules would revert back to current law. This proposal is in contrast to the current House proposal, in which the individual tax relief provisions are permanent.

Updates to provisions impacting rewards programs

Several notable provisions impacting rewards programs that were included in the original Senate proposal were removed before its passage by the Finance Committee, including changes affecting the tax treatment of nonqualified deferred compensation, proposed safe harbor rules for worker classification, and restrictions on 401(k) “catch up” contributions for certain employees.

Affordable Care Act changes

One additional noteworthy provision from the current Senate proposal is the reduction to zero of the penalty imposed on individuals who do not have adequate health insurance coverage (the “individual mandate” enacted in the Patient Protection and Affordable Care Act of 2010). This raises substantial revenue (the result of fewer people receiving tax credits and thereby making more revenue available for tax reform). This amendment would be effective for months beginning after December 31, 2018.

However, it is important to note that the proposal does not include changes to the employer mandate, which requires employers to offer healthcare coverage to 95% of full-time employees. Similarly, we anticipate that employer information reporting requirements (i.e., Forms 1095-B, 1095-C) will remain in-place.

Deloitte’s view

As stated in previous alerts, these proposals have been moving quickly through the Congressional process and remain fluid and in the last week we have seen many changes to initial proposals. Full Senate action is expected after Thanksgiving, and further changes are anticipated as the two chambers work to reach an agreed-upon final bill.

Although the reduced individual tax rates may be a benefit to many Americans, the proposed sunset of these provisions in 2025 in the Senate bill creates uncertainty as to the permanence of those benefits. In addition, and as stated in our previous alerts, certain company departments or individuals may actually see an increase in overall tax burdens.

In this quick-paced environment with near daily changes, companies should continue to monitor these proposals closely to stay aware of developments to be able to plan for potential changes.

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