In this issue:

Canada:
Proposed additional reporting requirements for non-resident trusts

Overview

In 2014, the Canadian government enacted legislation that requires certain non-resident trusts to file tax returns with the Canada Revenue Agency (CRA) and pay taxes on at least a portion of the trust's taxable income.

In addition, the Canadian employer and certain employees could be required to file additional information returns.

In the most recent federal budget, tabled on February 27, 2018, the Minister of Finance announced additional information reporting requirements for non-resident trusts that are required to file an annual tax return in Canada. These trusts will now be required to report the identity of all trustees, beneficiaries, and settlors of the trust, as well as the identity of each person who has the ability (through the trust terms or a related agreement) to exert control over trustee decisions regarding the appointment of income or capital of the trust.

The new reporting requirements will apply to returns required to be filed for the 2021 and subsequent taxation years.

It was also announced that additional funds would be allocated to improve the CRA's audit and administration of trusts and trust returns.

Deloitte's view

The proposed information requirements will increase the costs and administrative burden for a non-resident trust required to file a tax return in Canada. Further, the trustee may not have access to all the information required to satisfy the new reporting obligations.

Where a non-resident trust is currently filing a tax return in respect of a compensation program for Canadian resident employees and/or non-resident employees of Canadian businesses, the compensation program should be reviewed to determine whether the trust could be eliminated. In the right situation, existing programs could be restructured by replacing equity compensation with cash-settled programs or the issuance of shares from treasury.

In the event that such restructuring is possible, the impact of the Canadian "departure tax" rules would require consideration. Under the departure tax rules, the trust will be deemed to have disposed of all or a portion of its assets in the year it ceases to have a Canadian tax reporting requirement. The taxable capital gains arising from the deemed disposition will be taxed in the hands of the trust unless offsetting deductions are available.

— Chantal Baril (Montreal)
Partner
Deloitte Canada
cbaril@deloitte.ca

Anne Montgomery (Toronto)
Partner
Deloitte Canada
amontgomery@deloitte.ca

Amelie Desrochers (Montreal)
Senior Manager
Deloitte Canada
adesrochers@deloitte.ca

Mongolia:
Progressive personal income tax rates abolished

Overview

On 2 February 2018, due to unpopularity with Mongolian taxpayers, the Mongolian legislature passed a bill that amends the Personal Income Tax Act to repeal the progressive income tax rates on employment income introduced on 1 January 2018 (see *Global InSight*, 26 January 2018). In addition, changes were made to the tax credit granted to individual taxpayers.
URL: http://newsletters.usdbriefs.com/2018/Tax/GIS/180126_2.html

The new law applies retroactively as from 1 January 2018.

Tax rate on salary and wages

Effective 1 January 2018, the progressive rates of tax on income derived from employment (15%, 20%, and 25%) are rescinded, and the tax rate has reverted to the previous 10% flat rate.

Because the amendments were passed in February 2018 and apply retroactively to 1 January 2018, taxpayers who were subject to the progressive rates on their January 2018 salaries and wages are entitled to a refund.

Tax break

Resident individuals working in Mongolia under an employment contract are entitled to a credit (*i.e.*, a "tax break") in computing the income tax payable. The tax break previously was a fixed amount regardless of the amount of taxable income (with the amount increasing annually), but it is now dependent on the employee's taxable income, as follows:

	Annual taxable income (in MNT)	Amount of tax credit (in MNT)	
		2018	2019 & thereafter
1	0 – 6 million	160,000	240,000
2	6,000,000 – 12 million	140,000	220,000
3	12,000,000 – 18 million	120,000	200,000
4	18,000,000 – 24 million	100,000	180,000
5	24 000 000 – 30 million	80,000	160,000
6	30,000,000 – 36 million	60,000	140,000
7	36,000,000 or more	-	-

Although it is not specified in the law, practically for 2018, the 160,000 credit would apply if the annual income is 6 million, and the 140,000 credit would apply if the annual income is 6,000,001 or more, but not higher than 12 million, and so forth.

No other changes

The other changes to the Personal Income Tax Act and the Social Insurance Act that became effective on 1 January 2018 remain unchanged:

- The introduction of a 20% tax deducted at the source on income paid to nonresidents;
- Increased social security rates; and
- A 10% tax on interest paid by a foreign bank on savings accounts.

Deloitte's view

The reversal of the progressive tax rates to a 10% flat rate has been welcomed by taxpayers.

— Onchinsuren Dendevsambuu (Ulaanbaatar)
Partner
Deloitte Mongolia
odendevsambuu@deloitte.com

Tony Jasper (Hong Kong)
Partner
Deloitte People's Republic of China
tojasper@deloitte.com.hk

Huan Wang (Bejing)
Partner
Deloitte People's Republic of China
huawang@deloitte.com.cn

Irene Yu (Shanghai)
Partner
Deloitte People's Republic of China
iryu@deloitte.com.cn

People's Republic of China: Individual Tax Residence Statement under CRS rules

Overview

On 8 December 2017, the People's Bank of China, the State Administration of Taxation (SAT), and the State Administration of Foreign Exchange issued detailed guidance for banks to implement due diligence procedures under the common reporting standard (CRS) established by the Organisation for Economic Cooperation and Development (OECD).

The CRS became effective in China on 1 July 2017, following the issuance of “Due Diligence Procedure on Financial Account Information in Tax Matters for Non-Residents,” a set of final rules issued jointly by the SAT, the Ministry of Finance, and various financial regulatory bodies on 19 May 2017.

The CRS requires financial institutions (FIs) in China to comply with due diligence procedures to identify financial accounts of non-resident entities and individuals and report information on the accounts to the SAT. The SAT will then exchange the information with tax authorities in the jurisdictions in which the account holders are residents. The first reporting is due before 31 May 2018.

The December 2017 guidance provides banks in China with clear instructions to implement the CRS due diligence procedures related to bank accounts of both non-resident entities and individuals.

This newsflash focuses on the rules related to non-resident individuals.

Highlights

Due diligence procedures for individual accounts: As of 1 July 2017, FIs must comply with due diligence procedures for both pre-existing and new financial accounts belonging to non-resident individuals. FIs must report the relevant non-resident account information by 31 May of each year.

If the balance in an account exceeds USD 1 million as of 30 June 2017, the FI should make an electronic and paper-based record of the account information and ask the customer’s manager[1] to identify the tax residence status of the account holder.

For new individual accounts opened on or after 1 July 2017, FIs are required to obtain self-certifications (*i.e.*, “Individual Tax Residence Statement”) from the account holders and reasonably review the information therein.

Individual Tax Residence Statement: Pursuant to the CRS, the guidance stipulates that the FI must request an “Individual Tax Residence Statement” at the time an individual applies to open a new financial account or activate an existing account.

If the relevant information (*e.g.*, foreign identification, foreign address, etc.) indicates the account holder may be a non-resident, but the individual claims to be a Chinese resident in the statement, the FI must request the account holder provide additional documentation or an explanation to substantiate the Chinese tax residence status. The documentation may be in the form of one of the following:

1. “Certificate of Chinese Tax Residence” issued by the SAT to the individual;
2. China identity card;
3. Foreigner Permanent Residence Permit;
4. Entry and exit stamps in a passport that demonstrate residence in China for more than one year; or
5. Other relevant documents issued by the Chinese government.

The December 2017 guidance also addresses situations in which there are inconsistencies between the account holder’s “Individual Tax Residence Statement” and other information. In the following cases, the bank must conduct further investigation:

The residence status claimed in the statement conflicts with the identity information collected at the time the account was opened as part of anti-money-laundering procedures.

1. The statement claims the account holder is only a Chinese tax resident, but the individual holds foreign nationality (or residence status in Hong Kong, Macau, or Taiwan) or a foreign (or Hong Kong, Macau, or Taiwan) address or phone number.
2. The statement claims the account holder is a tax resident of a foreign jurisdiction, but the individual holds nationality in another jurisdiction or an address or phone number in another jurisdiction.
3. Any other situation in which the information in the statement conflicts with the account information.

[1] Customer’s manager here means financial institution’s account manager who is responsible for customer services.

Deloitte's view

The CRS and the December 2017 guidance were issued in the context of the global initiative to enhance cooperation and transparency among nations and prevent tax avoidance. Enforcement of the CRS in China has steadily moved forward following China's commitment to implement the "Standard for Automatic Exchange of Financial Information in Tax Matters," published by the OECD in 2014.

The key issue affecting expatriates working in China is the individual tax residence statement. Tax residence status is a main focus of FI's due diligence on individual accounts. Under the CRS, information collection, reporting, and exchange are based on tax residence, not nationality.

In practice, the determination of an individual's tax residence status can be complicated, and various factors may need to be taken into account. Companies with expatriate employees working in China should ensure their tax residence status is properly documented.

— Tony Jasper (Hong Kong)
Partner
Deloitte People's Republic of China
tojasper@deloitte.com.hk

Cecille Yang (Shanghai)
Director
Deloitte People's Republic of China
cyang@deloitte.com.cn

Huan Wang (Bejing)
Partner
Deloitte People's Republic of China
huawang@deloitte.com.cn

Irene Yu (Shanghai)
Partner
Deloitte People's Republic of China
iryu@deloitte.com.cn

South Africa:
Unemployment Insurance Fund contributions

Overview

Employees and employers are both required to make Unemployment Insurance Fund (UIF) contributions of 1% calculated on the employees' remuneration (*i.e.*, a total of 2%), subject to a monthly earnings cap for each employee. The employer is liable to withhold the total contribution of 2% and pay this over to the South African Revenue Service.

Currently, UIF contributions are, however, not required for an employee who has entered South Africa for the purpose of carrying out a contract of service, apprenticeship, or learnership within South Africa and, upon the termination of that contract of service, apprenticeship, or learnership, the employer is required by law or by contract or other undertaking to repatriate that person, or that person is required to leave South Africa.

The amendment

Section 3 of the Unemployment Insurance Act, No. 63 of 2001, has been amended to remove the exclusion discussed above effective 1 March 2018.

The impact of the amendment

Starting 1 March 2018, employers – whether South African resident or not – as well as their employees, who are on temporary assignment to South Africa, will be obliged to make UIF contributions on remuneration earned by those employees for services rendered in South Africa.

— Angelique Worms (Johannesburg)
Director
Deloitte & Touche Partnership
aworms@deloitte.co.za

Jaco La Grange (Johannesburg)
Associate Director
Deloitte & Touche Partnership
jlagrange@deloitte.co.za

Taiwan:
Personal income tax reform

Overview

The tax reform approved by the Legislative Yuan on 18 January 2018 (and still to be signed by the president) contains several major changes to the personal income tax system. Once in effect, the reform measures will apply retroactively for taxable years beginning from 1 January 2018.

This NewsFlash looks at the most significant new features of the changes to the personal income tax rules.

Main highlights

Tax brackets: The tax brackets are reduced from six to five, *i.e.*, 5%, 12%, 20%, 30%, and 40%. The top tax bracket (the 45% rate) will be eliminated.

The new tax brackets are as follows:

Tax base (TWD)	Tax rate (%)
540,000 and below	5
540,001 – 1,210,000	12
1,210,001 – 2,420,000	20
2,420,001 – 4,530,000	30
4,530,001 and above	40

Increased standard deduction and special deductions:

	Pre-2018 (TWD)	2018 and thereafter (TWD)
Personal exemption	• 88,000 (per person; for the taxpayer, his or her spouse, and dependents) • 132,000 (per person; for lineal ascendants age 70 or above)	Unchanged
Standard deduction	• 90,000 (for single taxpayers) • 180,000 (for married taxpayers)	• 120,000 (for single taxpayers) • 240,000 (for married taxpayers)
Special deduction for salary or wages (Note 1)	128,000 (per earner)	200,000 (per earner)
Special deduction for disability	128,000 (per earner)	200,000 (per earner)
Special deduction for preschool children under age six (Note 2)	25,000 (per child)	120,000 (per child)
Note 1: A salary special deduction amounts to the full amount of the individual's salary or TWD 200,000 per year, whichever is lower. **Note 2:** Two conditions must be satisfied to qualify for the deduction: (1) the applicable tax rate must be 12% or less; and (2) the alternative minimum tax (AMT) income may not exceed TWD 6.7 million.		

New dividend tax system: Pretax reform, dividends paid by a Taiwan company to a resident individual, are taxed at progressive rates ranging from 5% to 45%. Dividends paid to a nonresident individual were subject to a 20% withholding tax, unless the rate was reduced under an applicable tax treaty.

Because the tax reform abolishes the imputation system, the imputed tax credit (ITC) no longer will be available to investors, which could increase investors' tax burdens. To mitigate this impact, the tax reform measures allow resident individuals to elect to use one of the following two options to pay dividend income tax, whichever is more favorable:

1. **Option A:** All dividend income will be taxed in the same way as other personal income, but an exemption equivalent to 8.5% of the dividend income will be granted up to TWD 80,000 per household annually; or
2. **Option B:** A separate flat rate of 28% will apply on the dividend income.

Further, to reduce the disparity of the tax burdens between domestic and foreign investors, the withholding tax rate on dividend income received by nonresident investors is increased from 20% to 21%, unless a tax treaty applies.

Deloitte's view

1. The changes to the personal income tax rules aim to lower the tax burden on single taxpayers, wage earners, low-income earners, and families with children. A single taxpayer whose annual salary is less than TWD 408,000 (TWD 88,000 + TWD 120,000 + TWD 200,000) will not have to pay personal income tax.
2. In general, resident taxpayers with a progressive tax rate at 20% and below can choose option A for the taxation of his or her dividend income, with an exemption that can be more beneficial, whereas residents with a progressive tax rate at 30% and above can apply option B with a separate flat rate of 28% so that such income can be taxed at a lower rate.
3. Due to the elimination of the ITC, foreign investors may be affected not only by the increase in the withholding tax rate (currently 21%), but they also will lose the benefit of the ITC as a credit against the withholding tax. However, foreign investors may seek relief based on applicable tax treaties or available tax credits in their home countries.

— Cheli Liaw (Taipei)
Partner
Deloitte Taiwan
cheliliaw@deloitte.com.tw

United States:
Update on payroll implications of US tax reform: 2018 Form W-4 issued

Overview

The Internal Revenue Service (IRS) has issued a new 2018 Form W-4, following the earlier release of new income tax withholding tables, to employers as a result of tax reform legislation ("An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018") (the "Act").

Although not all employees will need to complete the new form for 2018, the IRS is encouraging all employees to perform a "paycheck checkup" to review their withholding position. Those employees with more complicated personal circumstances likely will need to file a new Form W-4. Those with more straightforward personal circumstances (*e.g.*, single filing status and no dependents) likely will not need to take any action.

This NewsFlash provides a consolidated summary of the most recent Form W-4 changes announced by the IRS and how employers should respond.

What's changing?

In addition to the reduction of income tax rates, individual income tax withholding may be impacted by other changes in the Act, including:

- Elimination of personal exemptions and increased standard deduction.
- Limitations on the itemized deductions available for state and local taxes, mortgage interest, and medical expenses.
- A new child tax credit calculation, with increased credit phase-out amounts.

To address these changes and their potential impact on withholding, a new Form W-4 has been issued for 2018, enabling employees to calculate the number of withholding allowances they will now be entitled. To support individuals with completing the new form, the IRS has made available a withholding calculator that helps determine tax withholdings and provides guidance on how to complete Form W-4, along with FAQs.
URL: http://www.irs.gov/W4app

Individuals with more complex situations are advised to consult Publication 505 once the IRS publishes an updated version. Complex situations may include individuals who owe self-employment tax, are subject to Alternative Minimum Tax (AMT) or are entitled to claim an AMT credit, and individuals with capital gains and dividends.

What does this mean for employees and employers?

Employers will need to ensure they make the new form available to their employees and direct them to the available IRS guidance on completing the form. These forms are typically made available through internal company websites.

All employees are advised by the IRS to check their position, and can use the IRS tools to do so, but not all will need to change the last Form W-4 they previously submitted. High-risk groups cited by the IRS who will likely need to make a change are:

- Families with more than one earner;
- People with two or more jobs at the same time or who only work for part of the year;
- People with children who claim credits such as the Child Tax Credit;
- People with older dependents, including children 17 or older;
- People who itemized deductions in 2017; and
- People with high income and more complex tax returns.

Employers with employees in states with high income tax rates (and therefore a higher proportion of employees that have historically itemized income tax deductions) are likely to have more new Forms W-4 to process than others. There will likely be an additional second wave of Forms W-4 submitted by employees once the 2017 tax returns are completed and Publication 505 becomes available.

Deloitte's view

While the IRS previously stated that employees would not be required to file a new Form W-4 for 2018, it now seems quite clear, as expected, that many employees with more complex personal circumstances should review the IRS guidance and file a new form. This review will help ensure that employees are not underwithheld and can mitigate underpayment penalties.

Employers will need to make the new form available as soon as possible, and should be prepared to answer questions posed by employees regarding the new forms. The extent to which employers will want to respond to those questions versus suggesting employees consult an outside source (*e.g.*, a tax adviser or the IRS website) will depend on the organization's historical approach to answering employee tax questions and the likely expected volume of employee queries.

— Eira Jones (San Francisco)
Client Service Executive
Deloitte Tax LLP
eijones@deloitte.com

Jason Russell (San Francisco)
Managing Director
Deloitte Tax LLP
jasrussell@deloitte.com

Laura Edell (Chicago)
Principal
Deloitte Tax LLP
ledell@deloitte.com

Jamie Gross (New York)
Managing Director
Deloitte Tax LLP
jagross@deloitte.com

Elizabeth Drigotas (Washington, DC)
Principal
Deloitte Tax LLP
edrigotas@deloitte.com

Grace Melton (Washington, DC)
Partner
Deloitte Tax LLP
grmelton@deloitte.com

Scott Walter (Chicago)
Senior Manager
Deloitte Tax LLP
swalter@deloitte.com

Martin Rule (Chicago)
Senior Manager
Deloitte Tax LLP
mrule@deloitte.com

Nick Broomhead (Atlanta)
Senior Manager
Deloitte Tax LLP
nbroomhead@deloitte.com