In this issue:

India: New income-tax return forms for financial year 2017-2018 notified 1
Indonesia: Individual income tax return submission deadline 3
United States: Tax reform considerations for accelerating deductions for qualified retirement plans 4

India:
New income-tax return forms for financial year 2017-2018 notified

Background

- The tax return forms for filing the annual returns are notified by the Central Board of Direct Taxes (CBDT) every year, and the forms for financial year (FY) 2017 – 18 – a total of seven – have now been notified.
- There is no change regarding how to file income tax returns (ITRs) compared to last year, though some fields have been rationalized in the latest forms. All these forms still need to be filed electronically, except in the case of individuals who are 80 years or older (at any time during the year) and individuals/Hindu undivided families (HUF) whose income does not exceed INR 0.5 million with no refund claim. These categories of tax payers may file their returns in paper form.
- This NewsFlash is focused on salaried tax payers and captures the key changes in the related tax return forms (*i.e.*, ITR 1 and ITR 2).
- The due date for filing the tax return for individuals (not having business or professional income above specified limits) is July 31, 2018.

Key changes – ITR 1 (Sahaj)

Eligibility to file: This form can be used only by individuals who qualify as resident and ordinarily residents (ROR) and have income from salary, one house property (with no brought forward/carry forward loss under this head), and other income (*i.e.*, interest, etc., not being winnings from lottery/income from race horses).

Who cannot file ITR 1: ITR 1 cannot be used by any category of tax payers other than individuals. Even within individuals, those qualifying as non-residents (NRs) and resident, but not ordinarily resident (RNOR), are not eligible to use this form. Additionally, under the permitted category (*i.e.*, RORs), CBDT has certain instances when ITR 1 cannot be used. These RORs are as follows:

- With total income exceeding INR 5 million
- Claiming reliefs from double taxation (under tax treaty or the domestic law)
- Having reporting requirements relating to assets located outside India (including financial interest); or signing authority in any account located outside India; or income from any source outside India
- Having income to be apportioned between spouses governed by Portuguese Civil Code
- With agricultural income exceeding INR 5,000
- Having dividend income from domestic companies in excess of INR 1 million or unexplained credit/investment/expenditure

Specific changes: The newly notified form mandates disclosure of salary as integral components such as allowances, perquisites and deductions, and house property income detailing the computation of taxable income (gross annual value, tax paid to local authorities, net annual value, interest on borrowed capital). With this, the reporting requirements have been aligned with ITR 2.

Key changes – ITR 2

Eligibility to file: ITR 2 may be filed by:

- Individuals not eligible to file ITR 1; and
- Individuals and HUFs having income under any head other than business or profession.

Specific changes:

- Removal of gender field.
- Since this form may not be used by individuals who are partners in a firm, the related schedules and disclosure requirements have been deleted.
- Details of exemption claimed on capital gains need to be reported now. For instance:
    - Date of transfer of original asset
    - Cost of new asset
    - Date of investment in new asset
    - Amount of deduction claimed
    - Amount deposited under capital gains accounts scheme
- Income from other sources comprising receipt of money/property without consideration or for inadequate consideration.

Other changes applicable across ITR 1 and ITR 2: New fields introduced for:

- Mandatory fee payable for filing of return of income beyond the stipulated due date
- Tax withheld by the tenant on rental income as part of the withholding tax schedule

Source: GSR 332(E) published in the Official Gazette dated April 03, 2018

Deloitte's view

The release of the income tax return forms with minimal changes is welcome. With the ITR 1 being applicable only to ROR individuals, NRs/RNORs will have to mandatorily use ITR 2.

Keeping in mind the focus of the authorities in ensuring tax return compliance in a timely manner and the mandatory levy of fees up to INR 10,000 (as specified in the law), tax payers are well advised to file the returns within the due date of July 31, 2018.

— Anis Chakravarty (Mumbai)
Partner
Deloitte India
anchakravarty@deloitte.com

Indonesia:
Individual income tax return submission deadline

Overview

On January 23, 2018, the Minister of Finance (MoF) issued Regulation No. 9/PMK.03/2018 ("PMK 9") regarding individual income tax returns. PMK 9 became effective on January 26, 2018. PMK 9 amends the previously issued MoF Regulation No. 243/PMK.03/2014 ("PMK 243").

The important features of this new regulation that affect international assignees in Indonesia are as follows:

Individual income tax return submission deadline

The normal tax filing deadline for annual individual income tax returns remains 31 March of the year following year. However, Article 9A, paragraph 1 of PMK 9 states that taxpayers who end their tax residency before the end of the year must file their individual income tax returns no later than three months after the end date of their tax residency during that year. This means that international assignees who end their assignments and leave Indonesia prior to year-end are required to submit their final year individual income tax returns within three months after their departure from Indonesia. Any taxes due must be paid prior to submission of the tax return.

Failure to meet this deadline will result in an interest penalty of 2 percent per month on any taxes due and a late filing penalty of IDR 100,000 for late submission of the individual income tax return.

In line with the obligation to report income and wealth on a worldwide basis in Indonesia, departing taxpayers must collect their personal information (*e.g.*, income, wealth) ahead of the filing deadline. This requirement may create some complexities as certain information on income and foreign tax credits may not be readily available at that time. In relation to this, PMK 9 also includes additional information on the extension process, as described below.

Extension application

Taxpayers who are unable to obtain complete personal information by the filing deadline may submit an application to the Tax Office to extend their filing deadline up to a maximum of two months after the original filing deadline. In order to manage penalty exposures, taxpayers may choose to pay any amount due for estimated or advance tax upon submission of the extension application.

In the event that the estimated or advance tax paid is higher than the actual tax due on the final individual income tax return, a taxpayer can request one of the following options:

1. Transfer the overpaid funds from the taxpayer's account at the State Treasury to other tax accounts in order to settle other outstanding tax obligations.
2. Refund the overpaid funds from the State Treasury to the taxpayer's personal bank account. This process will generally involve a detailed tax audit by the Tax Office prior to settlement.

Deloitte's view

Companies will need to review the departure process for their expatriates to ensure the expatriates' individual income tax returns or extension applications are submitted on a timely basis.

Further, the employing entity in Indonesia also needs to review its internal processes to ensure it can issue an employment income tax certificate (Form 1721 A1) for the expatriate's final year of employment at the earliest time possible.

Companies should communicate to expatriates the early tax filing deadline applicable to their year of departure in order to efficiently manage their expectations and the timeline.

In prior years, the Tax Office system could not accept tax return submission for the current year (*i.e.* 2017 tax return could not be filed in year 2017). By the issuance of PMK-9, we expect that the Tax Office system will be altered to accommodate the submission process and taxpayer will not experience technical issue.

— Irene Atmawijaya (Jakarta)
Partner
Deloitte Touche Solutions
iatmawijaya@deloitte.com

Sri Juliarti Hariani (Jakarta)
Director
Deloitte Touche Solutions
shariani@deloitte.com

United States:
Tax reform considerations for accelerating deductions for qualified retirement plans

Overview

December 22, 2017, saw the passage of the 2017 Tax Act ("the Act"), following successful reconciliation of the House and Senate versions of the bill. Tax reform has created opportunities to accelerate deductions related to certain employee benefit programs into a corporation's 2017 tax year. By accelerating these deductions, the company benefits from higher marginal tax rates in effect prior to the Act and has an opportunity to make additional strategic choices about its programs.

What's changing?

As a result of the Act, the top marginal tax rate for corporations has been reduced from 35% to a flat 21%. Corporations that file on a fiscal year basis will also see a reduction in their top marginal tax rates, though the rate applicable to such corporations in the taxable year beginning in 2017 will be a blend of the rates for 2017 and 2018.

As a result of this change, deductions are generally more valuable if taken for 2017, rather than 2018. Taxpayers who maintain defined benefit plans (*e.g.*, traditional pension plans, cash balance plans) or who maintain defined contribution plans (*e.g.*, profit-sharing plans) may be able to take a 2017 deduction for contributions made during 2018.

Deducting retirement plan contributions

Contributions to qualified retirement plans are deductible in the year contributed. However, contributions made after the end of the year may be treated as if made during the prior year if (a) the contribution is "on account of" the prior year, and (b) the contribution is made no later than the extended due date for the tax return (during a "grace period") for the year for which the deduction would be taken. For example, a calendar year corporation who has filed for extension of their 2017 calendar year tax return has until October 15, 2018, to make a contribution that would be deductible in 2017. However, as a consequence of minimum funding requirements applicable to defined benefit pension plans, it may be necessary, or advisable, to make the contribution earlier (no later than September 15, 2018 in the case of a calendar year plan) in order to comply with minimum funding obligations.

New law, old rate, strong incentives

The Act lowers marginal tax rates effective beginning in 2018. At the same time, the Act left rules related to timing of deductions for retirement plan contributions unchanged. Therefore, the ability to accelerate deductions for plan contributions into earlier years remains, and the benefits of accelerating these deductions can be significant.

If the return for the year ending in 2017 has not yet been filed, 2018 grace period contributions to a plan may be deducted on the 2017 return at the pre-Act 35% rate.

In the case of a defined contribution plan, the plan's allocation language should be considered, as it will be necessary for the plan to contain language to accommodate the additional contribution.

In addition to the value of the accelerated deduction, there are strategic reasons to consider contributing additional amounts to defined benefit plans at this time, including:

- **SERP shift:** Corporate taxpayers with SERPs may choose to increase benefits under the qualified retirement thereby potentially reducing their overall SERP liability. Paying benefits from a qualified retirement plan instead of a SERP may result in savings on FICA taxes, greater benefit security for SERP participants, and tax-free rollovers of related funds.
- **Derisking:** Additional funding in a defined benefit plan may allow a plan sponsor to purchase annuities or pay out lump sums to directly provide for the benefits of terminated vested participants, effectively limiting such sponsor's ongoing capital market risk.
- **Plan termination:** To terminate, a plan must be able to pay out its liabilities; additional funding can help facilitate a move away from an existing plan.
- **Retiree medical benefits:** A sponsor's plan has an existing retiree medical account (Section 401(h) account) in its defined benefit plan, the sponsor may have an opportunity for an additional 2017 tax year deduction by making additional contributions to the 401(h) account, up to applicable limits.

Deloitte's view

The change in tax rates presents an opportunity to preserve the value of deductions associated with certain common retirement programs. Important steps for employers to consider include:

- Obtain and review plan documents to determine whether the plans create the conditions for accelerating contributions.
- Obtain actuarial reports to determine whether a defined benefit plan's funding will permit any additional contributions to be made and deducted in the prior tax year.
- Discuss use of increased funding with advisers.

Read more about Deloitte Tax LLP's insights on US tax reform for human resources and global mobility.
URL: https://www2.deloitte.com/us/en/pages/tax/articles/tax-reform-global-mobility-human-resources-considerations.html?id=us:2sm:3na:gis:awa:tax:050418&sfid=70114000002G9Z7

— Thomas R. Pevarnik (Washington)
Managing Director
Deloitte Tax LLP
tpevarnik@deloitte.com

Michael Haberman (Parsippany)
Senior Manager
Deloitte Tax LLP
mhaberman@deloitte.com

Victor Fann (Los Angeles)
Managing Director
Deloitte Tax LLP
vfann@deloitte.com

Scott Szorcsik (Parsippany)
Senior Manager
Deloitte Tax LLP
sszorcsik@deloitte.com

Joel Eisenreich (Parsippany)
Principal
Deloitte Tax LLP
jeisenreich@deloitte.com

Jerry Karlin (Kansas)
Managing Director
Deloitte Tax LLP
jakrlin@deloitte.com

Christine Furie (Chicago)
Senior Manager
Deloitte Tax LLP
cfurie@deloitte.com

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

Blaise Kah (Cincinnati)
Partner
Deloitte Tax LLP
bkah@deloitte.com