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Australia:
2018 – 2019 Australian Federal Budget Announcements

Overview

On May 8, 2018, the 2018 19 Australian Federal Budget (the "Budget") was released, which contained a number of announcements that may affect foreign workers and their employers.

Personal tax announcements

The Government announced a seven-year personal income tax plan, including the introduction of a new tax offset and changes to personal income tax rates.

Low and middle income tax offset: The Government will introduce a new low and middle income tax offset, commencing July 1, 2018, and continuing until the tax year ending June 30, 2022. This offset will be received as a lump sum on assessment, after an individual lodges his or her tax return. The following table details the offset entitlement based on taxable income:

Taxable Income (A$)	Maximum Offset
Up to 37,000	$200
37,000 to 48,000	$200 plus 3 cents per dollar of income above $37,000
48,000 to 90,000	$530
90,000 to 125,333	$530 less 1.5 cents per dollar of income above $90,000

This offset is in addition to the existing low income tax offset and will be available only to individuals who are Australian tax residents.

From July 1, 2022, the new low and middle income tax offset will be removed and the existing low income tax offset will be increased from $445 to $645. The increased low income tax offset, $645, will be reduced at a rate of 6.5 cents per dollar for incomes between $37,000 and $41,000. For incomes between $41,000 and $66,667, the offset will be $385, and will be reduced by 1.5 cents per dollar above $41,000.

Personal tax rates: The Government also proposed the following changes to the personal income tax rate for Australian tax residents:

Rate (%)	Current tax Thresholds Taxable Income (A$)	Proposed from July 1, 2018 Taxable Income (A$)	Proposed from July 1, 2022 Taxable Income (A$)	Proposed from July 1, 2024 Taxable Income (A$)
Tax free	0 to 18,200	0 to 18,200	0 to 18,200	0 to 18,200
19	18,201 to 37,000	18,201 to 37,000	18,201 to 41,000	18,201 to 41,000
32.5	37,000 to 87,000	37,001 to 90,000	41,001 to 120,000	41,001 to 200,000
37	87,000 to 180,000	90,001 to 180,000	120,000 to 180,000	–
45	> 180,000	> 180,000	> 180,000	> 200,000

The increase to the Medicare levy proposed in last year's Budget, will not be proceeding (*i.e.*, the levy will remain at 2 percent for Australian tax residents).

The Government proposed the following changes to the personal income tax rate for non-resident taxpayers:

Rate (%)	Current tax Thresholds Taxable Income (A$)	Proposed from July 1, 2018 Taxable Income (A$)	Proposed from July 1, 2022 Taxable Income (A$)	Proposed from July 1, 2024 Taxable Income (A$)
32.5	1 to 87,000	1 to 90,000	1 to 120,000	1 to 200,000
37	87,000 to 180,000	90,001 to 180,000	120,000 to 180,000	–
45	> 180,000	> 180,000	> 180,000	> 200,000

The Government proposed the following changes to the personal income tax rate for working holiday makers:

Rate (%)	Current tax Thresholds Taxable Income (A$)	Proposed from July 1, 2018 Taxable Income (A$)	Proposed from July 1, 2022 Taxable Income (A$)	Proposed from July 1, 2024 Taxable Income (A$)
15	1 to 37,000	1 to 37,000	1 to 41,000	1 to 41,000
32.5	37,001 to 87,000	37,001 to 90,000	41,001 to 120,000	41,001 to 200,000
37	87,001 to 180,000	90,001 to 180,000	120,000 to 180,000	–
45	> 180,000	> 180,000	> 180,000	> 200,000

This assumes that the employer is registered as an employer of working holiday makers. If an employer is not registered as such, a 32.5 percent tax will be withheld from every dollar up to $87,000, and foreign resident withholding rates apply to income above $87,000. Penalties can also apply if an employer has a worker who holds a subclass 417 or 462 visa, but does not register as an employer of working holiday makers.

The Bill to enact both the offset and changes to personal income tax rates was introduced into Parliament on May 9, 2018, the day after the Budget was announced, and has been referred to the Senate Economics Legislation Committee. The opposition may not support these proposed changes to tax rates.

Australian Taxation Office (ATO) audit activity: The Government also announced that it would provide $130.8 million to the ATO from July 1, 2018, to increase compliance activities targeting individual taxpayers and their tax agents. The measure will also provide income matching activities; funding for new compliance activities, including additional audits and prosecutions; improvements to education and guidance materials; pre-filling of income tax returns; and improvements in real-time messaging to tax agents and individual taxpayers to deter over-claiming of entitlements, such as deductions by high risk taxpayers and their agents.

Employer announcements

Fringe Benefits Tax (FBT): FBT is imposed at a rate equivalent to the top marginal income tax rate (currently 45 percent plus 2 percent Medicare levy). As the 32.5 percent individual tax bracket begins its phased increase from July 1, 2018 to July 1, 2024 (*i.e.*, from $87,000 to $200,000) to capture a greater proportion of employees, it will highlight the importance of considering the tax impact of fully taxable fringe benefits to those taxpayers who fall within the 32.5 percent marginal tax rate.

Deduction denial: From July 1, 2019, businesses will no longer be able to claim deductions for payments to:

- Employees, if no Pay As You Go (PAYG) taxes were withheld from these payments (and there is an obligation to withhold).
- Contractors who do not provide an Australian Business Number and the payer does not withhold any amount, despite the applicable withholding requirements.

Additional funding is also being provided to the ATO to pursue tax debts, including outstanding employee superannuation entitlements.

Other

The Budget also includes a number of other announcements that may affect employees and employers, including:

- $130 million provided to upgrade Visa systems to improve screening of arrivals.
- Potential to obtain a refund of the Skilling Australians Fund levy, if:
  - The employer's sponsorship application is approved, but the employee's subsequent visa application is refused on health or character grounds;
  - The sponsorship and visa applications are approved, but the visa holder does not commence work with the employer; and
  - A Temporary Skill Shortage (subclass 482) visa holder leaves his or her employer within the first 12 months of employment, if the visa period was for more than 12 months.
- From July 1, 2018 individuals who have multiple employers and may unintentionally breach the $25,000 concessional superannuation cap can nominate that their wages from certain employers are not subject to superannuation (provided their income exceeds $263,157). An exemption certificate will need to be applied to "opt-out" of superannuation contributions on earnings.
- From July 1, 2019:
  - Individuals aged 65 to 74 can make voluntary superannuation contributions when their balance in the fund is below $300,000.
  - Increase in the maximum number of allowable members in new and existing self-managed superannuation funds from four to six.
  - All inactive superannuation accounts with balances below $6,000 will be transferred to the ATO.
  - Cash payments made to businesses within Australia for goods and services will be subject to a cap of $10,000. As such, transactions above this threshold will be required to be made through an electronic payment system or via cheque. Transactions with financial institutions or consumer-to-consumer nonbusiness transactions will not be affected.

- From July 1, 2021, there is a plan to increase the compulsory superannuation guarantee from the current 9.5 percent to 10 percent, with an increase to 12 percent in 2025.

Deloitte's view

The expansion of the refund provisions for the Skilling Australians Fund levy are sure to be a welcome change for employers engaging foreign workers under the Temporary Skill Shortage (subclass 482) visa. The refunds will only be available for unused full years of the levy. However, the refunds provide employers with a level of protection should visa holders leave employment prior to the end of their visa validity period. A separate NewsFlash will be released with additional details regarding recent immigration changes.

The decision to grant modest personal income tax cuts will be welcomed by low and middle-income earners. While the announcement that businesses will not be entitled to tax deductions for payments to employees if they fail to properly withhold PAYG is another indication of the Government's move to place greater emphasis on employer reporting and obligations.

Funding to ATO to enhance compliance activities also reinforces the focus on employer obligations and compliance. Single Touch Payroll, which will be introduced on July 1, 2018, for employers with more than 20 employees, requires the real-time reporting of income, tax, and superannuation payments made to specific employees. This and the funding for enhanced data matching capability within the ATO highlight the ATO's attention on compliance.

While the Budget did not announce any changes to negative gearing or the Capital Gains Tax (CGT) discount, the removal of the CGT main residence exemption for foreign residents announced in last year's Budget is likely to have a significant impact. This change is yet to be passed as legislation. However, if passed, it will come as quite a shock to Australian citizens and permanent residents who work overseas and choose to sell their main residence while residing outside Australia as a foreign tax resident. Under the proposed amendments, individuals who own a main residence on May 9, 2017, and who fall into this category, will only have until June 30, 2019, to sell their homes and access the main residence exemption.

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Germany: New taxation regime for investment fund income as of 2018

Overview

The German taxation of investment fund income (from both actively managed investment funds and exchange-traded funds) has always been very complex. Specifically, the investment funds themselves were subject to comprehensive reporting obligations. If a fund did not comply with these reporting requirements, the fund's investors were subject to unfavorable tax consequences.

As of January 1, 2018, reforms to the German Investment Tax Act significantly change the taxation of investment fund income. The objectives of the reforms are to simplify the taxation of such income and harmonize the tax treatment of domestic and foreign investment funds. Previously, many foreign investment funds did not comply with German tax reporting obligations, which often resulted in adverse tax consequences for German resident investors.

Legislation up to December 31, 2017

Until December 31, 2017, investment funds were generally treated as transparent investment vehicles in Germany. Consequently, any income generated by an investment fund was taxable in Germany, regardless of whether or not it was distributed to investors. Thus, any distributed income and deemed distributed income (as well as interim earnings) were generally categorized as income from capital assets and taxed at a flat income tax rate of 25 percent, plus a solidarity surcharge and, if applicable, a church tax, which added up to a maximum tax rate of 28.625 percent.

Distributed income is defined as any income generated by an investment fund and distributed to investors. Deemed distributed income is, in principle, defined as any investment income generated by the fund, but not distributed to investors. Therefore, even if an investment fund does not actually distribute any income to its investors, taxable income in the form of deemed distributed income could still be realized.

The determination of distributed income and deemed distributed income is complex and, in principle, not manageable for individual fund investors. Therefore, an investment fund – whether foreign or domestic – was obliged to determine the tax base per investment fund unit and publish it in the electronic federal gazette (www.bundesanzeiger.de), according to the German Investment Tax Act.

Before publishing the tax base in the electronic federal gazette, a professional tax adviser (or an accountancy firm) is required to review and confirm that the tax base is correct and in accordance with German tax law.

The information published in the gazette is visible to everybody. People can search the gazette either by the name of the investment fund or its International Security Identification Number (ISIN). This allowed German resident fund investors to easily determine and declare their fund income on their annual income tax returns.

However, if the investment fund did not comply with these comprehensive German tax reporting obligations, an unfavorable lump-sum taxation was applied to the investment fund income. In this case, not only were the fund distributions (and interim earnings) taxable, but also 70 percent of the increase between the first redemption price of the investment fund unit in the calendar year and the last redemption price of the investment fund unit in the calendar year.

In any case, at least 6 percent of the last redemption price for the relevant calendar year (or, in case there was no redemption price, the fair market value) was considered investment income for German resident investors and taxed accordingly. Thus, even if no distributions were actually made by the fund and the value of the fund even decreased during the calendar year, investors were subject to taxable income amounting to 6 percent of the value of the fund as of December 31 of the relevant year.

Any deemed distributed earnings, as well as any amount taxed according to the above-mentioned lump-sum taxation rules, were deducted from any actual sale proceeds realized when determining the taxable capital gain (*i.e.*, to ensure that, upon the sale of fund units, deemed distributed income was actually not taxed twice).

Legislation as of January 1, 2018

Due to the complexity of this former taxation regime, the legislator decided to significantly change the taxation of investment fund income as of January 1, 2018.

Broadly speaking, a holder of investment fund units will now only be taxed on distributions received from the investment fund and any capital gains realized upon the actual sale of the investment fund units.

However, an advanced lump-sum amount may still become taxable, regardless of any actual distributions received, which is – so to speak – an anticipated taxation of a potential future capital gain and replaces the deemed distributed earnings under the former taxation regime. Thus, investors may still suffer tax charges without any actual cash distributions (so-called "dry" tax charges).

According to the wording of the law, the advanced lump-sum amount is calculated as follows:

Advanced lump-sum amount = Basic return (*i.e.*, redemption price * basic interest rate * 70%) – actual distributions received

The relevant elements in the equation include:

- Redemption price that would be received for the sale of the investment fund unit (or the fair market value of the investment fund unit, in case there is no redemption price) at the beginning of the calendar year.
- Basic interest rate, which is derived from the return on long-term public sector bonds, calculated by the German Federal Bank and published by the German Federal Ministry of Finance at the beginning of each tax year. The basic interest rate for 2018 was published on January 4, 2018, and amounts to 0.87 percent.

The basic return (*i.e.*, Redemption price * basic interest * 70%) is limited to the increase in the value of an investment fund from the beginning of the calendar year to the end of the calendar year, plus any distributions received. Thus, if the value of an investment fund decreases, no tax will be due.

When determining the taxable capital gains realized on the sale of investment fund units, any advanced lump-sum amount taxed in previous years will be deducted from the sale proceeds, similar to the deemed distributed income within the former taxation regime applicable until December 31, 2017.

Thus, there will be no double taxation for pure domestic cases. However, the advanced lump-sum amount can still not be recovered if an individual leaves Germany before the investment fund units are sold. In this case, the capital gains realized upon the sale of investment fund units would generally no longer be taxable in Germany; thus, a tax effective deduction of any advanced lump-sum amounts previously taxed would no longer be possible. If another country taxed the entire capital gains without granting credits for any German taxes paid on the advanced lump-sum amount, it would still result in double taxation.

Since investment funds themselves will generally be subject to tax in Germany as of 2018 (which was not the case before), part of the income taxable at the investor level will now be tax exempt. The amount of the tax exemption will depend on the type of investment fund. For example, for equity investment funds (*i.e.*, funds investing at least 51 percent of their capital in shares of corporations), 30 percent of any income (*i.e.*, distributions, advanced lump-sum amount, and capital gains) will be tax exempt.

Deloitte's view

The recent reformation of the German Investment Tax Act is a welcome step toward simplifying and harmonizing the taxation of investment fund income in Germany. These reforms ensure a consistent taxation of investment fund income, regardless of any reporting made by the fund, and allow investors to more easily determine the taxable income on their investments. However, investors may still suffer "dry" tax charges due to the newly introduced advanced lump-sum amount, although this has been significantly attenuated in comparison to the former taxation regime.

Furthermore, the risk of potential double taxation for international mobile individuals still exists if the entire capital gain is taxed in another country without granting credits for any German taxes already paid on the advanced lump-sum amount.

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Ireland:
PAYE Modernization – Update April 2018

Are you ready for PAYE Modernization?

The "real-time" reporting regime for Pay as you Earn ("PAYE") will go live on 1 January 2019.

Employers will receive a letter from the Office of the Revenue Commissioners ("Revenue") in the coming days regarding the new reporting system. Revenue will commence an extensive media campaign and will undertake a number of customer service visits to organizations across the country to ensure every organization is aware that PAYE Modernization is fast approaching.

What is PAYE Modernization?

PAYE Modernization is a real-time payroll reporting system.

From 1 January 2019, payroll will need to go through the following steps prior to paying employees (*i.e.*, prior to each pay date):

1. Inform Revenue of the total cash payments and taxable benefits to be made to each employee on an individual basis in that pay period.
2. Obtain a Revenue Payment Notification (RPN) from Revenue for that pay period, which will contain relevant details on how to tax each employee for the pay period in question.
3. Process payments to employees and pay the associated taxes to Revenue.
4. Report payments made to each employee and the taxes paid to Revenue for such payments.

The above steps will replace the current P30 reporting, which was only required on a cumulative basis for the company rather than per employee.

The P35 filing will also no longer be required. It is important to note that it will not be possible to correct errors and omissions occurring throughout the year in advance of filing the P35 – the reporting process must be correct for each pay period, otherwise penalties may apply (under current legislation, penalties can apply to each separate reporting failure).

It is anticipated that there will be greater scrutiny of data and potential enquires by Revenue if material adjustments or differences arise month to month.

What about expatriate payrolls?

Additional factors will need to be considered for expatriate payrolls. In the UK, Her Majesty's Revenue and Customs (HMRC) introduced real-time reporting in April 2013, but HMRC included a "modified payroll" system for shadow payrolls with a relaxation of certain requirements in terms of shadow payroll reporting. However, as things currently stand, Revenue is not planning on having a separate payroll process for shadow payrolls in Ireland.

There are a number of practical implications in this regard, as there are natural delays in Irish payroll obtaining pay details for assignees to Ireland who are paid through their home country payroll. This needs to be discussed in further detail, and a review of the current process should be undertaken, along with a review of domestic payroll.

Where are we now?

Payroll software providers are currently testing their products with Revenue's system to ensure the new reporting requirement will be integrated into the payroll process for employers. Within the new system, employers will use a Lookup Revenue Payroll Notification (RPN) web service to retrieve RPNs, previously known as P2Cs, for employees. Under the new system, employers will be required to retrieve RPNs for new employees in order to set up a new employment for the employee. This will need to be completed in advance of running payroll.

Revenue is engaging with stakeholders regarding a wide range of practical issues that are likely to arise in relation to more complex arrangements. These include cross-border workers, share-based remuneration, flexible work patterns, the treatment of illness benefit, together with year-end administrative issues such as P35 adjustments and self-corrections.

How can you prepare?

The main issue for employers in preparation for PAYE modernization is to review payroll procedures to ensure that accurate information is provided on a timely basis. While this might be relatively straightforward for certain payroll items, it is very common for payroll teams to experience delays in obtaining accurate information on other items (*e.g.*, taxable expense payments, non-cash benefits in kind, etc.).

Typically, this affects more than the payroll team, as data comes through to the payroll team from a number of sources, and it is important to have all stakeholders involved so they understand the need for refined or improved processes. It is extremely important that any issues are identified and addressed now ahead of go-live on 1 January 2019. Early adoption will be key to a smooth transition to the new reporting system.

It is essential that employers take any relevant steps at this point to minimize complexities that may arise upon implementation.

January and February 2019 are likely to be extremely busy for payroll teams, both in terms of the new PAYE Modernization system and finalizing the P35 reporting for 2018. We recommend organizations implement tighter processes by autumn 2018 to ensure these are embedded by go-live on 1 January 2019.

Deloitte's view

Employers need to review their overall payroll processes and procedures to ensure that the flow of data will allow them to report accurately on a real-time basis. Currently, in a payroll context, there is an emphasis on year-end reporting. With real-time reporting, the focus needs to be on reporting accurate data on a timely basis for each pay period.

Areas that employers need to consider include:

- Do any changes need to be implemented to the payroll process to allow data to be processed on a real-time basis?
- Are you confident in the data (*i.e.*, is it accurate)?

- Is there clarity on ownership of the payroll process and implementation of the new requirements within the organization?
- Have you engaged with your payroll software supplier in relation to the project and any preparation required by you?
- Is the employee on-boarding process going to deliver new employee data to payroll in sufficient time for registration?
- Can any areas of the process be automated in order to reduce the risk of error?

While certain issues require further consideration by Revenue and its stakeholders, Deloitte's engagement will ensure our client's concerns are raised. We will be working with clients to help them prepare for this significant change and will keep them informed as the project progresses.

If you would like to discuss this matter in more detail, please feel free to contact your usual Deloitte contact.

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Ireland:
Temporary assignees to Ireland – new revenue guidance

Overview

If a non-resident individual who holds non-Irish employment works temporarily in Ireland for a local entity, Irish Pay-as-You-Earn (PAYE) tax implications may arise for either the foreign employer or the local entity.

The Office of the Revenue Commissioners ("Revenue") has maintained guidance on this topic since 2007. Despite the 2007 guidance being largely sensible and well understood, the area could be problematic in practice.

The 2007 guidance was updated in December 2016 to incorporate commentary from the Organisation for Economic Co-operation (OECD) (that is not reflected in Irish law). This updated guidance caused a lot of practical difficulties and uncertainty for employers, including making it almost impossible to obtain a PAYE exemption for an employee who spent more than 30 work days in Ireland in a tax year.

Since December 2016, Revenue has engaged with stakeholders, which has now resulted in revised guidance issued in April 2018. While aspects of the revised guidance are not as practical as the earlier guidance, Revenue's overall explanation of its position is clearly set out.

Temporary assignees up to 60/30 work days per year

The first item to consider is where the individual is a tax resident, specifically if the individual is a tax resident in a country that maintains a Double Taxation Agreement (DTA) with Ireland versus countries without DTAs with Ireland (referred to as non-DTA countries). This is important, as separate thresholds apply depending on the country of residence.

The position for a non-resident employee under the new guidance is summarized in the table below:

	Resident in a DTA Country		Resident in a Non-DTA Country	
Presence in Ireland During	**Number of Work Days in Ireland**	**Payroll Treatment**	**Number of Work Days in Ireland**	**Payroll Treatment**
One tax year	Up to 60 work days per tax year	No payroll obligation, but consideration must be given to whether the employee will return to Ireland in a subsequent year	Up to 30 work days per tax year	No payroll obligation, but consideration must be given to whether the employee will return to Ireland in a subsequent year
One tax year	61 work days or more	See "Certain DTA visitors to Ireland" section below	31 work days or more	Irish PAYE must be operated on income earned while working in Ireland
Two consecutive tax years	Up to 60 work days across two consecutive tax years	No payroll obligation, but consideration must be given to whether the employee will return to Ireland in a subsequent year	Up to 30 work days across two consecutive tax years	No payroll obligation, but consideration must be given to whether the employee will return to Ireland in a subsequent year
Two consecutive tax years	61 work days or more across two consecutive tax years	See "Certain DTA visitors to Ireland" section below	31 work days or more across two consecutive tax years	Irish PAYE must be operated on income earned while working in Ireland
More than two tax years	No threshold applies	See "Ongoing presence" section below	No threshold applies	Irish PAYE must be operated on income earned while working in Ireland

If a temporary assignee's earnings are subject to PAYE based on the above criteria, PAYE should apply to income referable to the Irish work days.

Certain DTA visitors to Ireland

If a temporary assignee exercises the duties of employment in Ireland for more than 60 work days, either in one tax year or cumulatively over two tax years, there is no automatic release from the obligation to withhold Irish PAYE. However, if the following conditions are satisfied, an employer may apply to Revenue for a release from the obligation to operate Irish payroll:

1. The assignee is a resident of a country that maintains a DTA with Ireland, and the assignee is not an Irish resident for tax purposes;
2. There is a genuine foreign office or employment;
3. The remuneration is paid by, or on behalf of, an employer who is not a resident of Ireland (see below); and
4. The remuneration is not borne by a permanent establishment that the foreign employer has in Ireland.

For the purposes of (3) above, Revenue will not accept this condition is met if the individual is:

- Working for an Irish employer in which the duties he or she performs are an integral part of the business activities (see below) of the Irish employer;
- Replacing a staff member of an Irish employer; or
- Supplied and paid by an agency (or other entity) outside of Ireland to work for an Irish employer.

The new guidance contains comments as to what Revenue means by "an integral part of the business activities." The following factors should be considered on a case-by-case basis:

- Who bears the responsibility or risk for the results produced by the assignee?
- Who authorizes, instructs, or controls where, how, and/or when the work is performed?
- Who does the assignee report to, or who is responsible for assessing performance?
- Are the role and/or duties performed by the assignee more typical of the function(s) of the overseas employer or the Irish entity?

This is not an exhaustive list, so it remains to be seen how this will work in practice. Revenue has included a number of examples in the guidance.

Ongoing presence: Another new aspect of the revised guidance is the concept that individuals with ongoing requirements to return to Ireland over several years will not qualify for the automatic PAYE exemption, regardless of the number of days spent in Ireland in a particular year.

For example, if an individual is required to be in Ireland to attend quarterly meetings each year for a total of four work days per year, the individual will not qualify for an automatic PAYE exemption under the revised guidance. Instead, the employer may apply for a PAYE exemption in the normal manner. The guidance also indicates that such an exemption (if granted) would be valid for a single tax year only, so annual exemption applications would be required.

Rotational assignees: Furthermore, the guidance indicates that if a role is filled in Ireland by a series of different individuals on a rotational basis (*e.g.*, four individuals spending consecutive periods of 50 work days each in Ireland working in the same role), the payroll withholding position should be considered with respect to that role as a whole (*i.e.*, inclusive of all 200 work days).

These rules are likely to have a significant impact in particular on businesses that operate on an "all-Ireland" basis, as there are likely to be a large number of employees required to work north and south of the border each year. The Irish PAYE position will need to be considered on a case-by-case basis.

Applications for release from the obligation to operate PAYE: The guidance increases the time limit to apply for a PAYE exemption from 21 days to 30 days.

In general, applications will not be approved retrospectively. However, the guidance also states that employers will not be penalized if it was not expected or readily apparent that an individual would be required to work more than 60 work days in Ireland in a year.

Interaction with treaty relief

The new guidance acknowledges that the application (or non-application) of PAYE withholding will not have an impact on an individual's income tax position, which will depend on his or her individual circumstances and the relevant DTA provisions.

Deloitte's view

The updated guidance provides an element of clarity around Revenue's position in relation to short-term business visitors to Ireland. However, the guidance is more of a case of one step forward and two steps back. The guidance, as it stands, is broadly unworkable for employers in a practical sense.

The "watering down" of Ireland's long-standing practice of treating not more than 30 work days as incidental and exempt is disappointing, particularly given that it brings the spectre of employers having to operate PAYE on individuals with just one work day in Ireland. Likewise, the removal of the exemption for up to 60 work days in one tax year for residents of DTA countries through the introduction of multi-year tracking requirements is extreme in nature. At a time when Ireland is looking to attract business as a result of Brexit, this approach is unhelpful.

Non-Irish employers should now review all temporary assignments to Ireland to ensure the correct payroll treatment is being applied as this revised guidance applies with effect from 1 January 2018.

This tightening of Irish tax rules emphasizes the need for international employers to have robust tracking systems and processes in place in order to identify cases that may fall within the Irish PAYE net – especially for foreign workers who may regularly return to Ireland.

These recent changes need to also be reviewed in the context of PAYE modernization, which will require real-time payroll reporting from 1 January 2019. While special arrangements for globally mobile employees are not anticipated, it would make sense for the new system to include features that facilitate the smooth operation of PAYE in these cases.

If you would like to discuss this matter in more detail, please feel free to contact your usual Deloitte contact.

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Switzerland:
Living and working in Switzerland 2018: A guide for foreign nationals relocating to Switzerland

Overview

Living and working in Switzerland provides expatriate individuals (and their employers) information of a practical nature (*e.g.* housing, banking, education), as well as information on taxes and other employment☐related matters.

The publication is not intended to provide in☐depth answers to specific questions and should be treated as a general outline. Due to the complexity of, and frequent changes to, Swiss law and those in other countries, individuals and employers should seek advice that is specific to their circumstances.

Country background

A stable political system: Located at the heart of Europe, Switzerland is the second oldest federal state in the world after the United States of America. The country is divided into 26 states, which are known as cantons. They originally united to form the Confederation with the adoption of the Constitution of 1848 – the only exception is the canton of Jura which separated from the canton of Berne in 1979. Berne is the capital city of the Swiss Confederation.

A multicultural population: Today the total population in Switzerland is about 8.3 million, most of whom live in the major cities – Zurich, Basel, Geneva and Berne. In comparison with other European countries, the proportion of foreigners is particularly high in Switzerland representing around 24% of the resident population. The vast majority of foreign residents come from Europe – Italy (15.4%), Germany (15.1%) and Portugal (13.1%). However the proportion of residents who come from other continents is slightly increasing.

A robust economy: Switzerland's economy is fairly robust in terms of gross domestic product (GDP). If we consider GDP per capita, it is among the richest countries in the world. The main sources of Switzerland's GDP include services (71%), industry such as machinery manufacture, pharmaceuticals production and watchmaking (27%).

Safety and quality of life: Switzerland is known for its high standard of living, attracting many professionals and their families from around the globe – Zurich and Geneva are regularly ranked as being amongst the best cities in the world in which to live.

Immigration roadmap: Switzerland has a dual immigration system

EU/EFTA Nationals: EU/EFTA nationals (*i.e.* EU citizens as well as citizens of Norway, Iceland and Liechtenstein) benefit from the Agreement on the Free Movement of People, and therefore have a legal right to obtain a work permit based on a signed Swiss employment contract. They receive their work permit upon registration at their local community office of their domicile in Switzerland. EU/EFTA nationals on assignment to Switzerland (no Swiss employment contract) for more than 90 days per calendar year are not covered by the Agreement on the Free Movement of People. A work permit application has to be approved in advance. The Swiss salary levels have to be respected and additionally all assignment related costs for accommodation, food and travel have to be covered by the employer. The applicable Swiss salary level has to be individually calculated depending on several parameters such as education, age, professional experience or responsibilities. The processing time with the authorities amounts to around 3-6 weeks.

Non EU/EFTA Nationals: Non EU/EFTA Nationals Locally hired non EU/EFTA nationals are only granted a work permit if no equivalent candidate could be found on the Swiss employment market and effective and extensive recruitment efforts can be proven (requirement). Exemptions are applicable for intra company transfers of highly specialised employees or for positions in managerial roles. For intra company assignees (no Swiss employment contract), the precedence is not applicable under the condition that the assignees have been employed for at least 12 months. For all non EU/EFTA nationals the Swiss salary levels have to be respected. Most non EU/EFTA nationals have to pick up an entry visa in order to enter Switzerland for work and/or residence. The processing time with the authorities for the work permit including the entry visa amounts to around 4-8 weeks.

Immigration roadmap: Living in Switzerland

Language: Even though Switzerland is a small country, its people speak no less than four different languages: German, French, Italian, and Rhaeto☐Romanic.

Everything from the list of the ingredients on the package of groceries to official government documents has to be printed in three different languages (German, French and Italian).

The German speaking Swiss speak a different form of German than the Germans or the Austrians, called "Swiss☐German" or "Schweizerdeutsch". To make it more complicated, each canton has its own dialect and there is no written Swiss☐German at all. Fortunately, the Germans, Austrians, and Swiss-Germans use the same written German language, which is close to the so-called "high German," the standard for the German languages.

The French and Italian speaking Swiss also have a unique version of their language that differs from their neighbours, but the difference is mainly in vocabulary and is not as dramatic as in the case of Swiss-German.

The other official language is Rhaeto☐Romanic, a very old language (considered so because new words are not introduced, but instead taken from German) that is spoken within a limited region of Switzerland. Even though there are only a few villages where they still speak this language, there are nonetheless five different dialects.

Immigration roadmap: General information

Currency and foreign exchange: The currency is the Swiss Franc which is divided into 100 cents (rappen/centimes/ centesimi). Swiss coins are available in 5, 10, 20, and 50 cents, as well as 1, 2, and 5 franc amounts. Bank notes are printed in denominations of 10, 20, 50, 100, 200, and 1'000 francs. The official abbreviation of the Swiss Franc is CHF, although it is common to see SFr. and Fr. used as well. There are no currency or exchange control restrictions in Switzerland.

Banking: Switzerland is a country with an efficient and established banking system. Current account services are available through the major banks, the Post Office Bank, Cantonal Banks, and private banks.

Public holidays: Some holidays are specific to individual cantons. However, there are some national public holidays, listed below.

- January 1 – New Year's Day
- April (variable) – Good Friday
- April (variable) – Easter Monday
- May (variable) – Ascension Day
- August 1 – Swiss National Day
- December 25 – Christmas Day
- December 26 – Day After Christmas

If one of these days falls on a weekend, it is not usual for the following weekday to be given off "in lieu".

Office and retail hours: Most offices are open from 08:00 until 17:00, Monday through Friday, although banks and government buildings may close earlier. Shops are usually open from 09:00 until 18:30, Monday through Friday, and on Saturday from 09:00 until 17:00 (with shops in the city staying open later). In certain cities, shops will stay open until 21:00 on one day of the week. Shops are closed on Sunday, with the exception of shops in airports, train stations or some tourist areas.

Postal services: The post office hours in Switzerland vary depending on the size and location of the post office. Locations in the city centre or near airports/train stations may open later.

There are two postal categories – Tariff A Priority (for next day delivery in Switzerland) and Tariff B Standard (for delivery within two to four days in Switzerland).

Housing: The Swiss housing market is difficult in certain locations given the limited supply of housing. Prices for the purchase and rental of property remain relatively high, especially in urban areas.

Renting property: It is possible to arrange for housing individually through resources available to the public. There are still listings in the local or regional newspapers, but more often information is nowadays available on the internet. By subscribing to various dedicated websites, vacancies can be found, but information may be limited as properties are not always advertised on the internet due to the short vacant period between renters. Acting quickly is highly recommendable as properties are usually rented in a short amount of time.

Alternatively, the services of a real estate or relocation agent can be used to help review housing alternatives. The biggest benefit of using an agent is the fact that agents often have access to properties before they are listed on the open market. The agent can also assist in prioritising a specific rental application above other applications, although the final decision is always made by the landlord (there is no requirement for the landlord to accept the first application for a rental property).When determining the overall cost of the rental property, it should be considered whether any charges are included in the monthly rent, such as utilities, cable television, etc. It is standard for landlords to request a security deposit of up to three months rent.

Purchasing property: The purchase of property can take time and will also affect an individual's tax situation (see our separate section on the tax issues related to real estate). The advice of a qualified real estate professional should be sought when purchasing a property in Switzerland, as they can explain the various fees that will be due upon purchase, including transfer taxes, notary fees, and land register fees (approximately 6-7% of the purchase price should be budgeted for these fees).

The Bilateral Agreement on the Free Movement of Persons provides that, effective 1 June 2002, an EU/EFTA national holding a residence permit and resident in Switzerland enjoys the same rights as Swiss citizens with regard to the purchase of real estate. In addition, C permit holders, regardless of nationality, have the same rights as Swiss citizens to purchase real estate. Those individuals can acquire real estate in Switzerland such as a principal residence or a second home, a holiday home, land to build on, or an investment in a property.

EU nationals and cross-border workers (irrespective of nationality) who are not resident in Switzerland may acquire real estate if necessary for their gainful activity. Otherwise, the acquisition of a second residence or of holiday accommodation requires the granting of authorisation from the local authorities.

Individuals are required to pay at least 20% of the purchase price of a personal□use primary property as a down payment (*i.e.* the maximum amount of the mortgage is 80%). Generally, two mortgages are set up and the main one does not require amortisation of capital. Individuals can also use their pension capital (2nd and 3rd pillar) to finance the purchase of real estate in Switzerland, but only for a principal residence.

Purchasing property in Switzerland may have significant impact upon an individual's tax position. Fiscal advice should therefore be sought prior to any property purchase.

Utilities: Individuals are often required to organise their utilities by arranging the services with the relevant company. In some cases, *e.g.* apartments in the city centre, the arrangement of utilities can happen relatively quickly. However, it can take more time in an older home or for residents in rural locations, depending on the amount of work involved.

The telephone system in Switzerland is managed by Swisscom (www.swisscom.com). To have a telephone line installed or connected an individual will need to contact them. After registering with Swisscom, a different service provider can be chosen from a variety of companies.

There is a wide range of internet service providers, which vary by geographic location. Some will also provide telephone options.

The public utility system (*i.e.* electricity, water) is usually managed by the cantons and the process will vary from canton to canton, as well as from city to city. As with Swisscom, one should expect to pay a deposit to have the services turned on and to register an individual account. Some utility companies will invoice based on estimated usage (usually from the preceding tenant) and will then adjust for the actual usage once a year or upon the closing of an individual's account.

Television and radio: Television signal systems vary from country to country, even within Europe, so an imported television may not receive a signal in Switzerland. Few basic channels can be received with an aerial only, but a satellite or cable hook□up is needed to access anything more than this basic service. It is possible to receive US and UK television broadcasts either via self-set up or through the local satellite dealers, although a supplemental fee is due for this service.

Everyone owning a television, computer or radio in Switzerland (including a car radio), is obliged to pay a television and/or radio license fee that is centrally collected through a company called Billag. All individuals who own a functioning radio or television are required to register with Billag upon arrival in Switzerland.

Education: The Swiss education system is the responsibility of the cantons, so the process may vary from canton to canton.

Public schools are funded by the cantons through tax revenue, so there are no additional fees for schooling at public schools. Children living in Switzerland are required to attend an educational institution, either private or public, from age 6 or 7.

The public school system in Switzerland is divided into the following sections:

- Nursery school (Kindergarten): for ages 3 to 6, usually two years before entering primary school. This school is normally not mandatory.
- Primary school: for ages 6 to 15. Primary school encompasses grades one through nine.
- Secondary school: for ages 15 to 19. Secondary school is designed to prepare the child for the post-secondary schooling.
- Post-secondary school: for ages 19 and up. Post□secondary school can be a college or university, a specialty school, or a professional/vocational school, depending on the career plans of the student.

The public education system in Switzerland has a reputation for high quality and tough standards. Upon arrival in Switzerland, individuals wishing to register their children in public schools are required to contact the cantonal education department and will be required to provide them with a copy of a work/residence permit and proof of health and accident insurance for the child.

Foreign children from ages 12 to 15 who wish to be registered in public schools will be required to pass a proficiency examination set by the cantonal education department. The same requirement exists for the universities, who often also request proof of language proficiency before admitting the student.

Parents also have the option of enrolling their children in private schools, which include American, British, French, German, and Japanese. The cost can vary greatly from school to school. In addition, the school may have a waiting list of up to several years. Information about these schools can be obtained from the internet, the Swiss National Tourism office, or the Swiss embassies of various foreign countries.

Driving in Switzerland: Switzerland has an extensive network of roads ranging from multi□lane highways to small country roads. The major roads are always well□maintained and Swiss drivers are extremely courteous on the roadways, making driving in Switzerland relatively simple. Driving is on the right side.

Driver's licence: Individuals are required to have a valid driver's licence to drive in Switzerland. Foreigners who are living in Switzerland are allowed to drive for up to one year on their home country driving licence or an international driving licence, assuming they meet the minimum legal driving age of 18 years old (21 for large trucks). To obtain a Swiss driver's licence, an individual will have to apply at the local motor vehicle division with the following items:

- Completed application to exchange their foreign licence for a Swiss licence.
- The original foreign driver's licence for exchange or for the authorities to stamp as "invalid in Switzerland".
- A certificate from a Swiss certified optician that the eye examination has been passed, which costs about CHF 25 (the motor vehicle department can provide a list of certified opticians in a specific area).
- One colour passport-sized picture.
- A copy of the Swiss permit (the actual permit must be brought along when applying for the licence).

In most cases, home country or international driving licences can be converted to a Swiss licence within the first year in Switzerland without taking an examination or practical driving test.Individuals from certain countries may be required to pass a practical driving test, but not the written exam.

Individuals who fail to convert the licence to a Swiss licence within one year from their arrival will have to take both the written and practical exams to obtain their Swiss licence.

Buying or importing a car: An individual must have a residence permit (or at least the permit number) before they can purchase a car in Switzerland. Purchasing a car from a dealer is the simplest approach, as the dealer will usually take care of all registration items.

However, it is possible to purchase from a private individual, with many listings being available on the internet.

Cars are required to pass a strict mechanical evaluation by the motor vehicle department on a periodic basis (usually every 2☐5 years, depending on the age of the car). Any mechanical problems that are discovered must be corrected, and the vehicle re-examined by the motor vehicle department, within a short period of time. When purchasing a car in Switzerland, the buyer should question when the car last underwent this mechanical evaluation.

After any purchase, an individual will need to obtain a licence plate and a "circulation permit", as well as to take out insurance through a private insurer before the car can be driven in Switzerland. Proof of insurance and the grey "circulation permit" are the first things the police will ask for upon any traffic control.

A car can be imported into Switzerland, provided the following documents are available:

- Proof of car insurance by an insurance company registered in Switzerland;
- An expert report with the official customs stamp and/or additional customs authorisation;
- The date the vehicle was first registered from the original registration card;
- Technical data of the vehicle, such as engine size, weight, and maximum speed; and
- An antipollution maintenance card established in Switzerland after the proper tests have been completed.

There is an exemption under Swiss law that allows an individual to import their personal car without taxes or duties as part of their move to Switzerland, provided that they have owned the vehicle for six months prior to the move to Switzerland and they continue to own the vehicle 12 months after arrival in Switzerland.

Otherwise, Swiss VAT (7.7%) and car tax (4%) – both calculated on the car's value – are payable upon importation of a car. Custom duties may also be charged, depending on the country of construction (not the country where the car was purchased) and the weight of the car. It may be possible to reclaim VAT paid in the country of purchase in certain circumstances.

In addition, the car will have to undergo a technical evaluation (as discussed above) and may require additional updates to be compatible with the Swiss system, such as ensuring the speedometer shows kilometres.

Car insurance: Insuring a car in Switzerland is both mandatory and costly (relative to other countries). There are three types of insurance in Switzerland: (1) civil responsibility, (2) comprehensive coverage and (3) accident insurance.

All cars are required to have civil responsibility cover as a minimum; this covers injury and damage inflicted on a third party. The comprehensive coverage – which covers collision, theft, vandalism, etc. to the car – and accident insurance for passengers are both optional.

Practical tips: For any travel on the motorway, an annual (calendar year) highway sticker needs to be purchased. These stickers are available at the border crossings and most petrol stations for currently CHF 40. The speed limit on the highway is 120km/h unless posted otherwise, whereas the speed limit in towns is generally 50km/h.

Drivers should pay attention for photo radars, both in the cities and on the motorways. Drivers caught exceeding the limit will receive a traffic ticket.

All passengers are required to wear their seatbelts and children under age 12 are not allowed to ride in the front seat. Drivers generally travel in the right lane unless passing another car. If a car behind flashes their lights or puts on their turn signal, it is a sign that they would like to pass. Swiss drivers will not honk the horn unless it is an emergency or someone has made a serious traffic error (they consider the use of the car horn for other purposes to be rude).

Immigration roadmap: Labour law

The Swiss employment contract should stipulate most of the terms of an individual's employment in Switzerland, including the working hours, vacation entitlement, place of work, etc. Employer policies and procedures should be studied carefully as they often form part of the employment contract.

Notice period: Employment contracts in Switzerland are subject to a trial period, which may vary depending on the employment contract. Once the trial period has passed, the employment contract may be cancelled if proper notice is given as follows:

- Up to one year of service: one month's notice (at the end of a month).
- As of the second year of service and up to the completion of the ninth year of service: two month's notice (at the end of a month).
- As of the tenth year of service and later: three month's notice (at the end of the month).

The individual employment contract or a company policy might stipulate a different notice period, but it may not be less than one month.

Termination of the employment contract should be communicated via registered mail by either party. A letter notifying the intention to end the contract must reach the employer or the employee by the last working day of the month for the notice to be effective for that month.

The notice period begins after the receipt of this letter and the salary continues to be paid during the notice period according to the employment contract. The final salary payment should include a prorated 13th monthly salary (if a 13th month salary payment is part of the employment contract) and any residual vacation balance should be taken during the notice period or paid in full.

On a related note, the employment contract will automatically terminate on the last working day of the month that the employee reaches retirement age, unless a separate agreement is made between the employer and employee.

Restrictions for employment termination: Employment cannot be terminated by the employer under any of the following circumstances:

- During pregnancy and during the first 16 weeks after birth.
- During military and other officially required services, or 4 weeks before or after such services if they exceed 11 days.
- During absences due to sickness or accident, but only within:
    - 30 days if during the first year of employment;
    - 90 days from the 2nd to 5th year of employment; and
    - 180 days from the 6th year of employment.

For instance, the employer cannot terminate the employment contract of the employee during the first 30 days of sickness leave in the first year of employment. However, the employment contract can be terminated after the 30-day period has passed, even if the employee is still ill.

Immigration roadmap: Social security and pensions

- **Pillar I:** The first pillar consists of old-age and survivor's insurance, as well as invalidity insurance and a pension intended to cover the employee's basic living costs upon retirement. Pillar I contributions are mandatory for both salaried employees and self-employed individuals.
- **Pillar II:** The second pillar includes the same benefits as Pillar I and, together with Pillar I, should amount to at least 60% of the beneficiary's last income and allow pensioners to maintain the standard of living to which they are accustomed. Pillar II contributions are mandatory for salaried workers only.
- **Pillar III:** The third pillar represents an additional savings plan for individuals to meet their further retirement needs and is optional for all individuals, although it offers tax benefits that may not be available with other forms of savings.

The social security contribution rates applicable for 2018 are summarised on the next page.

Swiss social security contributions are tax deductible (employee contributions) or tax-free (employer contributions). Contributions to foreign social security schemes are treated in the same way to the extent that these foreign contributions are similar or at least comparable to the Swiss social security contributions.

Pensions (second pillar): As with Swiss social security (first pillar), affiliation to a pension fund (second pillar) is mandatory for all Swiss employees below retirement age (currently 64 years for women and 65 years for men) and therefore every Swiss employer must establish or join a recognised Swiss pension scheme.

However, under a valid certificate of coverage, the employee is exempted from mandatory Swiss pension fund contributions. If the employee remains affiliated to the home country pension scheme, the (employee) contributions into the foreign plan might be fully tax deductible as long as this foreign pension plan broadly corresponds to a Swiss plan. A review of the foreign plan is therefore necessary to see if recognition in Switzerland can be obtained.

Health insurance: In addition, anyone arriving in Switzerland with the intention of staying must take out Swiss health insurance within three months, which should cover them from the arrival date. Health insurance is mandatory for all Swiss residents and is organised privately, although some employers may choose to subsidise a collective private plan. The Swiss government will ask for documentation to prove that all members of an individual's family have appropriate health insurance.

Social health insurance gives everyone living in Switzerland access to adequate health care in the event of sickness, and accident if they are not covered by accident insurance. Health insurance in Switzerland generally covers the cost of outpatient treatment, doctors (general practitioners), hospitals, pharmacy, etc. Broadly speaking, everyone is responsible for 100% of their health care expenses up to a certain amount (which can be chosen individually and which impacts the level of health insurance premiums payable), plus 10% (in general) of any costs above this amount up to an annual cap. The insured may choose any health insurer, and the insurer must accept the insured irrespective of age and state of health, and without any reservations or qualifying period.

Health Maintenance Organizations, or HMOs, are a relatively new concept in Switzerland and may not provide the same discounted costs on health care as they provide in other countries.

International health plans (*e.g.* CIGNA) are typically not recognised and are therefore not sufficient to fulfil the above-described legal obligations but each situation needs to be considered on a case-by-case basis upon arrival in Switzerland.

Immigration roadmap: Income and wealth taxation

Switzerland's complex income tax system is structured around the three layers of government: federal, cantonal (or state), and communal (or city). In most cantons, the majority of the tax burden comes from the cantonal taxes.

Federal, cantonal, communal and church tax: Swiss taxes are levied on at least three different levels:

- The direct federal tax (marginal rate: 11.5%) is uniform throughout Switzerland and only due on income.
- The cantonal tax varies from canton to canton and is levied on income and wealth.
- The communal tax can vary from community to community, is levied on income and wealth and is normally calculated as multiple or percentage of cantonal tax.
- Church tax is levied in many (but not all) cantons on the income and wealth of individuals affiliated to one of the three official Swiss church communities (*i.e.* roman□catholic, Christ□catholic and Swiss protestant). Church tax is typically levied as percentage of cantonal tax. Individuals affiliated to a different church community (*e.g.* Jewish, Muslim, Buddhist) or agnostic taxpayers are exempted from Swiss church tax.

Income and wealth tax rates are typically progressive on the federal and cantonal level. The maximum income tax rate including federal, cantonal and communal taxes (but excluding church tax) is between approximately 21% and 46%, depending on the canton and commune while the marginal wealth tax rate can vary from around 0.15% to 1% depending on canton and commune as well.

For individuals, the Swiss tax year equals the calendar year, but split years apply for individuals who start or end being subject to Swiss taxation.

Resident versus non-resident: The taxation of income and wealth in Switzerland is dependent on the individual's tax residence status. A foreign individual who is regarded as a tax resident in Switzerland will in general be subject to tax on worldwide income and net wealth while a non□resident taxpayer is only subject to Swiss taxation on Swiss sourced income and Swiss situs assets.

Resident taxpayers: Individuals qualify as tax resident in Switzerland based on domestic legislation if:

1. Their tax home (*i.e.* centre of vital interests) is located in Switzerland; or
2. They spend 30 consecutive days in Switzerland (minor interruptions like weekends abroad are ignored) while performing a gainful activity; or
3. They spend 90 consecutive days in Switzerland (minor interruptions like weekends abroad are ignored) without performing a gainful activity.

In practice, each individual holding a Swiss residence permit (*e.g.* B permit) and/or registered as resident with the local authorities is regarded as fiscally resident based on domestic legislation.

International legislation (*i.e.* double tax treaties or other international conventions) can override Swiss domestic legislation. An individual qualifying as fiscally resident in another country at the same time might therefore be exempted from Swiss resident taxation based on a specific double tax treaty.

Non□resident taxpayers: Individuals who do not qualify as Swiss tax resident based on domestic or international law might still be subject to Swiss taxation as non□residents on certain Swiss sourced income and/or Swiss situs assets. Non□resident taxation based on domestic legislation is for example due on the following income and assets:

1. Gainful activity (employer or self□employed) performed on Swiss soil; or
2. Income deriving from and assets attributable to a place of business or a permanent establishment located in Switzerland; or
3. Director fees paid by Swiss based companies; or
4. Income deriving from and the value attributable to Swiss real estate; or
5. Pensions (especially second pillar pensions) paid by a Swiss pension plan provider.
6. International legislation (*i.e.* double tax treaties) might overrule or limit the Swiss taxing rights.

Taxable income and wealth for resident taxpayers: Resident individuals are in principle subject to Swiss taxation on their worldwide income and wealth. Domestic legislation, however, allows the following items to be exempted with progression from Swiss taxation:

- Income deriving from and the value attributable to foreign real estate; and
- Self□employed income deriving from and assets attributable to a foreign place of business or permanent establishment; and

- Income attributable to equity based incentive schemes that has been earned prior to taking up Swiss tax residency.

Further income and wealth items might be exempted with progression based on international legislation (*i.e.* double tax treaties).

Any items (income or wealth) exempted with progression will be taken into account in order to determine the applicable tax rate (*i.e.* progression impact), but will not be subject to Swiss taxation.

The Swiss income tax basis is rather broad. Taxable income includes active (*e.g.* income from any gainful activity as well as pension income) and passive (*e.g.* interest, dividends, rental income) income. The most important exception from this general rule relates to capital gains on privately held movable assets (*e.g.* shares and bonds) that in general remain tax-free. Capital gains on business assets are subject to ordinary income tax while capital gains on properties located in Switzerland are normally taxed separately from any other income at a special cantonal (and sometimes communal) capital gains tax.

Only 60% (or 50% if the shares are held as business assets) of the gross dividends deriving from qualified shareholdings (*i.e.* taxpayers owning 10% or more of the company's capital) are taxed at the federal level. Most cantons provide similar (or even slightly higher) exemptions for such qualified dividends on the cantonal tax level.

Subject to wealth tax are basically all of an individual's assets with the exception of pension entitlements (Swiss and foreign) and household goods (*e.g.* furniture, clothes etc.). The taxable assets would for example include bank balances, securities of any kind and other investments, real estate (the value of foreign real estate is exempted with progression), cars, boats and planes as well as precious metals or art. In general, the fair market value of all the assets as at the end of the tax period (31 December or the date that an individual breaks Swiss tax residency) is subject to Swiss wealth tax. Only Swiss real estate is taxed on the normally lower tax value as determined by the cantonal tax authorities where the property is located. Any outstanding liabilities (*e.g.* mortgages, student loans, car loans, outstanding credit card balances) at the end of the tax period can be deducted from the value of the assets so that only the net wealth is subject to taxation.

Deductions from taxable income for resident taxpayers: Swiss law allows various deductions from gross income in order to arrive at the net taxable income. The most important deductions (non-exhaustive list) are:

1. All employee contributions to the Swiss (and comparable foreign) social security system and pension plans can be deducted from taxable income. This also includes additional voluntary contributions to a qualified Swiss pension plan to close past contribution gaps and voluntary contributions to the Swiss 3rd pillar a retirement saving plans. Contribution caps for the voluntary contributions must be observed.
2. Employees can claim a deduction for the commuting costs (normally limited to public transport) for the daily commuting between home and the place of work. The deductions are often limited to a maximum annual amount (CHF 3'000 for federal tax and various other limits for cantonal taxes). In addition, costs for professional education (of the taxpayer, not the dependent children!) and general business expenses not reimbursed by the employer can be deducted.
3. Interest charges (*e.g.* mortgage interest, credit card charges, student loan interest etc.) can be deducted from taxable income up to an annual limit equal to the gross investment income (*i.e.* interest, dividends and rental income) plus CHF 50'000.
4. Childcare costs can only be deducted for children younger than 14 years old provided that both parents are objectively (due to work, education and/or disability) unable to care for the child themselves. The actual costs up to an annual limit (different limits for federal and cantonal taxes) can be deducted.
5. Deduction can be claimed for periodic alimony payments to former spouses and minor children (younger than 18 years old). One-time settlements upon divorce are typically not deductible.
6. Contributions to Swiss based and recognised charitable organisations can be deducted while contributions to foreign organisations tend to be not deductible.
7. Employees qualifying as Expatriates for Swiss tax purposes can claim additional deductions from taxable income or can be reimbursed tax-free for certain assignment related costs. The special section dealing with the Expatriate status provides more details in this respect.

Additional deductions (*e.g.* non□reimbursed healthcare costs exceeding a certain threshold, asset management costs) as well as personal exemptions (for taxpayer, spouse, dependent children and/or other dependents) might be available. Different regulations and limitations can apply for federal and cantonal tax purposes.

Expatriate tax status: Individuals qualifying as Expatriates for tax purposes can claim additional deductions or be reimbursed tax□free for certain assignment related allowances. In order to qualify as Expatriate and individual must be:

- A foreign national (Swiss nationals cannot qualify as Expatriates);
- An executive or specialist; and
- Be assigned to Switzerland by a foreign employer for a period not exceeding five years.

Individuals qualifying as Expatriates can claim the following deductions or be reimbursed on a tax□free basis for the following assignment related allowances:

- Actual relocation costs (shipping of household goods and travel costs for Expatriate and any accompanying family members) at the start and the end of the assignment; and
- Fees for international schools for children accompanying the Expatriate to Switzerland provided these children are unable to go to public schools due to language issues; and
- Reasonable Swiss housing costs provided that the Expatriate keeps his or her former principal residence in the home country available during the Swiss assignment.

Despite of various efforts to harmonise the interpretation of Expatriate qualification mentioned above there are still significant cantonal differences. Individuals who qualify as Expatriate in one canton might therefore not be recognised as Expatriate in a different canton.

In addition, there are significant inter□cantonal differences with respect to the deductions (or tax□free reimbursements) allowed. The term “reasonable” is for example not defined by the legislation resulting in different limitations in different cantons.

In some cantons it is possible (or even recommendable) to obtain binding rulings with respect to the Expatriate status for certain populations. These rulings that are binding for all employees living in the canton with which the ruling has been agreed aim to agree on more objective qualification conditions and clear definitions and limitations for additional deductions (or tax□free reimbursements). In certain cantons (especially in Geneva) it might even be possible to agree on standard deductions that do not depend on the actual costs incurred.

Representation allowances: Employees who are required to travel extensively can be reimbursed with a standard representation allowance for small expenses (up to CHF 50 per occasion) incurred during such business travel. These representation allowances must be agreed with the competent cantonal tax authorities and remain free of income tax and social security contributions. In return, the employees are typically unable to claim reimbursement of small business expenses up to CHF 50 per occasion.

To agree representation allowances with the competent cantonal tax authorities mainly results in an administrative simplification for employer and employees to reimburse small business expenses. Especially in Geneva, representation allowances can, however, be an interesting tax planning tool because the amounts granted by the Geneva tax authorities (normally around 5% to 10% of compensation up to an annual maximum of CHF 100’000) are significantly higher than in other cantons (most other cantons would not grant allowances of more than CHF 24’000 per annum for top executives and lower amounts for lower level employees).

Overview of level of taxation in different cantons: The following table gives an estimate of the tax burden in the main cantons in Switzerland for several salary levels applicable to a married couple with two children but no church affiliation (all amounts in CHF). Minor rate differentiations apply, based on marital status and stated religion.

These amounts are calculated on the basis of gross income after standard deductions, including social security contributions and mandatory pension fund contributions.

Tax at source versus tax return system for resident taxpayers: The remuneration paid by or on behalf of Swiss based employers to Swiss resident foreign employees not holding a permanent residence permit (= C permit) and not married to a Swiss spouse or C permit holder is subject to tax at source (*i.e.* withholding tax on wages). These Swiss resident taxpayers only can and must file a Swiss tax return if:

- Their annual(ised) gross remuneration exceeds a certain threshold (CHF 500'000 in Geneva and CHF 120'000 in all other cantons); or
- They have other income and wealth exceeding a certain threshold that is determined by their canton of residence (*e.g.* CHF 2'500 of income or CHF 200'000 of wealth in the canton of Zurich).

In the first scenario (*i.e.* annual gross remuneration exceeding a certain threshold) the final individual tax liability will be determined on the tax return filed. The tax already withheld at source will be credited against this final liability and the taxpayer will either receive a refund or will have to pay an additional amount.

In the second scenario (*i.e.* other income and wealth exceeding a certain threshold) the tax withheld at source will remain the final tax liability on the employment income. The tax due on the additional income and/or wealth is determined based on the return filed and must be paid in addition.

Employees whose remuneration is subject to tax at source and whose annual(ised) gross income does not exceed the cantonal threshold can file a tariff correction (deadline: 31 March of the year following the tax year – no extension possible!) with the competent cantonal tax authorities to claim additional deductions that are not included in the tax at source tariff (see section "Deductions from taxable income for resident taxpayers"). Standard deductions and personal exemptions are already considered in the different tax at source tariffs and cannot be claimed.

Other Swiss resident taxpayers (*i.e.* Swiss nationals, foreign nationals holding a C permit or married to a Swiss national or C permit holder, foreign nationals without employment income paid by or on behalf of a Swiss based employer) must file a tax return in any case.

Tax return system: The filing deadline for Swiss tax returns (for resident and non☐resident taxpayers) is in general 31 March of the year following the tax year. Since the deadline is set by cantonal legislation each canton must, however, be checked separately. Most cantons allow this deadline to be extended easily, but the length of the extension can differ from canton to canton.

Married couples are in general obliged to file a joint return declaring the income and wealth of both spouses and of any minor children (*i.e.* children younger than 18 years old). In return, they are taxed at a special tax rate for married couples (at the federal level) with a lower progression and are granted higher standard deductions and personal exemptions than single individuals. Some cantons provide partial splitting systems (and higher deductions/exemptions) in order to achieve equal (or at least similar) treatment between married couples and single individuals.

Since the enactment of the Swiss legislation on the recognition of same-sex relationships as per 1 January 2007 registered same☐sex partners qualify as married couples for Swiss tax purposes.

Each tax return is formally assessed by the competent cantonal (or communal) tax authorities. The assessment is a formal decision whether the return is accepted as filed or whether changes are imposed. The assessment can be appealed within 30 days upon receipt. Depending on the canton it can easily take 12☐18 months from the date the return has been filed until the final assessment is issued.

Tax at source versus tax return system for non☐resident taxpayers: Non☐resident taxpayers whose Swiss sourced income is subject to tax at source or any other Swiss income tax withholding are typically (irrespective of their nationality) not obliged to file a Swiss tax return. Whether they are able to file a return or a tariff correction (see the respective section for resident taxpayers) depends very much on the situation and the applicable cantonal rules and practices. This should therefore be checked carefully on a case☐by☐case basis.

Non☐resident taxpayers owning real estate located in Switzerland are – on the other hand – normally obliged to file an annual Swiss tax return irrespective of whether rental income is generated or not.

Lump sum taxation: The lump sum taxation is a special tax status available to foreign nationals who:

- Take up residence in Switzerland for the first time ever or after an absence of at least 10 years; and
- Do not perform any gainful activity in Switzerland.

Individuals benefitting from this special tax regime are not subject to Swiss taxation on their worldwide income and net wealth, but based on their worldwide expenditure (living costs). The minimum taxable income and wealth is typically agreed with the competent cantonal tax authorities in a binding ruling upon application prior to taking up Swiss tax residency.

These minimums are compared annually to the Swiss sourced income and the foreign sourced income for which relief from foreign taxation is obtained based on a Swiss double tax treaty. The taxpayer is taxed on the higher of the two at the ordinary progressive Swiss income and wealth tax rates applicable in the specific canton and community of residence.

Some cantons (*e.g.* Zurich) have abolished this special tax status and consequently do not offer lump sum taxation for individuals residing in these cantons.

This special tax status can be an attractive tax planning tool for wealthy foreign taxpayers who want to relocate to Switzerland.

Inheritance and gift taxes: There are no federal estate, inheritance or gift taxes, but basically all cantons (with the exception of the canton of Schwyz) levy these taxes. In a few cases, inheritance, property and gift taxes are also levied by the communes.

An individual becomes liable to Swiss inheritance or gift tax upon:

1. Inheriting assets from a person whose last residence was in Switzerland; or
2. Receiving a gift from a donor resident in Switzerland; or
3. Receiving real estate located in Switzerland either as a gift or as an inheritance. Liability to taxation does not depend on the nationality of the deceased or of the donor, nor on the place of residence of the heir or donee.

Transfers (*i.e.* gift and inheritance) to spouses are exempted from inheritance and gift tax in all cantons while transfers to direct descendants (*i.e.* children, grand☐children) are exempted in most cantons.

The tax rate for other transfers is normally progressive and depends on the competent canton (and/or community), the relationship between the two parties and the amount or value transferred. The marginal tax rate can be in excess of 50% in some cantons.

Immigration roadmap: Indirect Taxes

Value added tax: Switzerland introduced a value added tax (VAT) in January 1995 that is similar to the tax charged by other European countries. The VAT rate for most purchases in Switzerland is 7.7%, although some items are taxed at a reduced rate. In addition, individuals in Switzerland on a diplomatic permit may pay a reduced amount of VAT or no VAT at all.

Private individuals resident in Switzerland or Liechtenstein have to declare and pay Swiss VAT, if they acquire supplies from non Swiss VAT registered providers domiciled outside Switzerland/Liechtenstein for more than CHF 10’000 in the calendar year. Such supplies can be lawyer’s fees, asset management and custody fees, tax advisors fees, professional fees, transportation of goods, services related to a Swiss property. In case the threshold of CHF 10’000 is met within one year, the total amount incurred in that year has to be declared in a letter at the latest by 28 February of the following year to the Swiss Federal Tax Administration, which will subsequently issue an invoice.

Moving (household effects): Household goods and any collections, animals or cars can be imported into Switzerland duty☐free at the time of the change of residency. The imported goods must have been used personally abroad for at least 6 months before the importation date and they have to be continued to be used thereafter. It is possible to import household effects within two years after the change of residency provided the conditions mentioned above are met.

Clearance of household effects must occur at the time of the change of residency (relocation of the goods) and within the opening hours of customs offices for merchandise. For the first importation, the completed application form 18.44 needs to be presented at the customs office. Immigrants from the 25 initial EU States as well as from Norway, Iceland and Liechtenstein may prove the change of residency with an employment contract, lease or a confirmation of notice of departure from the country of departure. If emigrating from a different country, an assurance of a Swiss residence permit has to be provided to the customs authorities.

Crossing the border with cats, dogs or ferrets: The animals need to be microchipped, own a pet passport and hold a valid rabies vaccination to enter Switzerland. There are several more restrictions depending on the country of origin. Further information are provided on the website of the Federal Food Safety and Veterinary Office.

Travelling to Switzerland, allowances and duty□free limit: When entering Switzerland, personal belongings, travelling provisions and the fuel in the tank of your vehicle are considered as import tax free and import duty□free. For all other goods, tax and duty will be charged depending on the quantity and the value of the articles being carried. The following chart provides an overview on the allowance of tax and duty□free importation into Switzerland.

Immigration roadmap: Other federal taxes

Stamp tax: There is a stamp duty levied on security transactions in Switzerland by the broker involved in the transaction. This transfer tax of 0.3% for foreign securities and 0.15% for Swiss securities is levied by the broker as part of the transaction fees.

Federal withholding tax: Federal withholding tax is levied at 35% on investment income (such as dividends and interest over CHF 200 per annum) derived from deposits with Swiss banks, Swiss investment fund income, as well as on bonds and bond-like loans from Swiss debtors. This withholding tax is either fully reimbursed or fully credited against the Swiss tax liability for Swiss resident taxpayers, provided the investment and the income are properly declared in the tax return.

The aim of the federal withholding tax is to ensure that interest and dividends received by domestic taxpayers are properly declared as taxable income, and to charge non-resident recipients of interest and dividends with a final tax. However, foreign recipients of interest and dividends may be granted a full or partial refund if a double tax treaty exists between Switzerland and their country of residence.

European Union Savings Directive: The European Union Savings Directive is an agreement between EU countries to exchange information (effective as of 1 July 2005) on interest paid to individuals residing in another EU country.

The agreement between the EU and Switzerland stipulates that the interest payments made by a Swiss paying agent to beneficial owners who are individuals and residents of an EU member State are subject to EU source tax of 35% (from July 2011). Interest payments made on debt-claims issued by Swiss debtors are excluded from the EU source tax, as they are already subject to Swiss withholding tax at 35%. Indeed, all interest payments subject to Swiss withholding tax will be excluded from EU source tax. In addition, and provided EU source tax is due, a beneficial owner can avoid the tax withholding by expressly authorising his Swiss paying agent to report the interest payments to the Swiss Federal Tax Administration.

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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 paying 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:051818&sfid=70114000002G9ZV

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