In this issue:

Ireland: PAYE Modernisation update 1
People's Republic of China: Individual Income Tax Reform: Consultation Paper released on additional itemized deductions 4
Singapore: Updates on tax exemption of employer's contribution to nonmandatory overseas pension fund or social security scheme under the NOR scheme 7

Ireland: PAYE Modernisation update

Are you ready for Pay As You Earn (PAYE) modernisation?

The "real-time" reporting regime for the PAYE will go live on January 1, 2019.

On this date, employers will have received a number of letters from Irish Revenue highlighting the new regime. You will have received a request to submit a list of your employees to Revenue – the deadline for which was October 31. Employers may also have received a customer service visit from a local Revenue officer. Revenue has undertaken a national campaign, holding more than 100 seminars around the country and running media advertisements. In summary, payroll reporting obligations are changing.

What is PAYE Modernisation?

PAYE Modernisation is a real-time payroll reporting system.

© 2018. For information, contact Deloitte Touche Tohmatsu Limited.

Beginning January 1, 2019, employers must make a submission to Revenue on or before making a payment to an employee.

After the end of each calendar month, Revenue will issue a statement based on submissions received, which sets out the tax due for the period. The statement is deemed a statutory return by the 14th day after month end.

Where errors are made, there is scope to amend the statement before the 14th day of the following month. Payroll taxes are then remitted to Revenue by the 23rd day of the following month.

The P35 filing will also no longer be required – the reporting process must be correct for each pay period, otherwise penalties may apply.

What about benefits-in-kind and notional payments?

Revenue has advised that benefits-in-kind (BIK) and other notional payments should be reported by:

1. The day the BIK or notional payment is made; or
2. The earlier of the next pay day date or December 31 of that year.

This applies to items such as medical insurance premiums, taxable professional subscriptions paid directly to the relevant body, share-based remuneration, etc.

A "best estimate" of the taxable value should be included in the next payroll submission after the benefit/notional payment is provided. When the actual value becomes known, an adjustment is to be processed in the following payroll submission. Revenue expects these items to be reviewed regularly and at least quarterly with adjustments processed in the next payroll submission.

It is important to consider items that are provided in December. Employers tend to pay salaries early in advance of the Christmas break. Where items are provided to employees after the cash payment date, a separate payroll submission is required on or before December 31.

Does this also apply to taxable expenses?

Revenue has advised that a payroll submission is required on or before any taxable cash payment is made to employees.

Many employers reimburse employees for items that, while allowable under the company expense policy, are taxable. To date, these items are generally picked up through retrospective reviews throughout the year and before the P35 is filed. This type of catch-up exercise will no longer be possible.

Employers should review internal processes to ensure that taxable expenses can be identified before reimbursing employees.

Further complexities may arise where expenses are reimbursed by the accounts payable department or off-payroll-cycle as additional payroll submissions may be required.

Revenue has confirmed that the use of company credit cards are considered notional payments with the benefit being provided at the date the credit card is used (and not when the credit card bill is settled). Such items should be included in a payroll submission and report to Revenue by:

1. The day the benefit is provided; or
2. The earlier of the next pay day date or December 31 of that year.

This may create practical difficulties for employers in determining what items are reportable each period as you may not have oversight of the taxable expenses incurred until a later date when the employee submits expense details.

© 2018. For information,
contact Deloitte Touche Tohmatsu Limited.

What about expatriate payrolls?

Revenue has provided further clarity with regard to expatriate payrolls for employees of non-Irish companies working in Ireland. While not fully adopting a "modified payroll" system similar to that in the UK, Revenue is to relax the regime.

Payroll submissions for expatriate shadow payroll cases are to be aligned with the Irish employer's payment dates. A "best estimate" of benefits, allowances, and expenses should be included in each payroll submission. These items should be reviewed at least quarterly with adjustments processed in the next payroll submission. An indicator box will need to be ticked on Revenue Online Service (ROS)/payroll software to identify inbound expatriate employees to Revenue.

Many outbound expatriates continue to be paid by the Irish employer during an assignment and may also be retained in the Irish PRSI system. The PRSI contributions are generally collected and reported through payroll. In these cases, again Revenue has advised that a "best estimate" of benefits, allowances, and expenses should be included in each payroll submission. These items should be reviewed at least quarterly with adjustments processed in the next payroll submission. Where a PAYE exclusion order is held for an outbound expatriate, the payroll submission must include confirmation that the PAYE exclusion order has been used by the employer. Revenue has advised that there will not be a specific indicator on ROS/payroll software for such outbound employees.

What is the impact of noncompliance?

The current penalty regime provides for a €4,000 fixed penalty for each breach of the PAYE regulation. There is also provision for a €3,000 fixed penalty imposed on the company secretary for each breach. These penalties can be imposed on a per-item basis, so if you are even a midsize-level employer, these penalties can mount up.

The equivalent penalty regime operated by Her Majesty's Revenue and Customs (HMRC) in the UK for breaching the Real Time Information (RTI) rules for payroll is £100 per infringement.

Revenue has stated that the penalty regime is under review. The self-correction facility is also being reviewed to take account of PAYE Modernisation.

While we would hope that penalties would only be enforced for significant breaches and only in situations displaying evidence of deliberate behaviour, as things stand, they could be applied to any correction of or omission from a payroll submission.

How can you prepare?

The main issue for employers in preparation for PAYE Modernisation 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, more complex items exist. It is extremely important that any such issues are identified and addressed now, ahead of go-live on January 1, 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. A change in mindset across organisations is required. It is very common for payroll teams to experience delays in obtaining accurate information on certain items (*e.g.*, taxable expense payments, noncash benefits-in-kind, etc.). Typically this affects more than the payroll team, as data comes through from a number of sources to the payroll team and it is important to have all stakeholders involved, so they understand the need for refined or improved processes. Currently, in a payroll context, there is an emphasis on year-end reporting. With PAYE Modernisation, the focus needs to be on the real-time reporting of accurate data in each pay period.

While we welcome Revenue's comments during seminars that "Revenue's role in the early days of PAYE Modernisation will very much be one of supporting employers," a lot of uncertainty still remains. We await clarity on the PAYE penalty regime that will apply going forward and guidance as to what we can expect from Revenue after this transition phase.

© 2018. For information, contact Deloitte Touche Tohmatsu Limited.

Deloitte is working with clients to help them prepare for this significant change through meetings, communications, and tailored labs, and leadership will keep you informed as the project progresses. Revenue plans to publish an updated Employers' PAYE Guide in December 2018 followed by updated Tax & Duty Manuals on this area after this date.

If you would like to discuss this matter in more detail, please contact Daryl Hanberry or your usual Deloitte Ireland contact.
URL: mailto:dhanberry@deloitte.ie

People's Republic of China:
Individual Income Tax Reform: Consultation Paper released on additional itemized deductions

Overview

On October 20, 2018, China's State Administration of Taxation (SAT) released draft guidance on the additional itemized deductions introduced as part of the new individual income tax (IIT) law for public consultation (the "Consultation Paper"). Comments can be submitted to the SAT website until November 4, 2018.

The IIT law, which will be effective January 1, 2019, introduces the following six additional itemized deductions for certain living expenses when calculating taxable "comprehensive income":

1. Education expenses for children;
2. Expenses for continuing education;
3. Health care costs for serious illnesses;
4. Residential mortgage interest;
5. Housing rent; and
6. Expenses to support elderly parents.

Highlights of the consultation paper

General principle: According to the Consultation Paper, the additional itemized deductions are designed to accomplish the following objectives:

- Ensure fairness and reasonableness;
- Simplicity and workability;
- Reduce the tax burden on taxpayers; and
- Improve the living standard of the general population.

The Consultation Paper states that the scope and criteria of the additional itemized deductions will be adjusted based on changes to expenditure levels incurred by the population, where appropriate. It also provides that unutilized deductions may not be carried forward to subsequent years for deduction.

Scope and criteria of deductions

Education expenses for children:

- Qualifying expenses are those incurred for children from kindergarten to postgraduate education.
- A fixed deduction of RMB 12,000 per year (RMB 1,000 per month) per child is allowed.
- Parents can share the deductions or, subject to their agreement, one parent may claim all of the deductions. Once the deduction method is determined, it cannot be changed for one calendar year.

© 2018. For information,
contact Deloitte Touche Tohmatsu Limited.

Continuing education expenses:

- These expenses are incurred for a taxpayer’s continuing academic education (*e.g.*, bachelor’s degree, postgraduate degree) and/or continuing professional education for skilled personnel/specialized technical qualifications.
- A fixed deduction of RMB 4,800 per year (RMB 400 per month) for an academic education program is allowed.
- A fixed deduction of RMB 3,600 is allowed for a professional education program when the taxpayer obtains the relevant certification.
- For an academic education program (*e.g.*, postgraduate), a taxpayer can choose to claim a deduction as “continuing education expenses” or have his or her parents claim the deduction under “children education expenses,” but both parties cannot claim the deductions.

Health care expenses for serious illnesses:

- Health care expenses (excluding expenses borne by the medical social security program) exceeding RMB 15,000 in a calendar year according to the Social Medical Insurance Management Information System may be claimed.
- A taxpayer can claim the deduction at the time the annual return is filed. Unlike the fixed deduction method that is available for other costs, the deduction of healthcare expenses for serious illnesses is based on the actual expenditure, but is capped at RMB 60,000 per year.
- A taxpayer must maintain the original or photocopies of the relevant documents to support the deduction of health care expenses.

Residential mortgage interest:

- These expenses refer to mortgage interest incurred for the first property owned by a taxpayer or his or her spouse.
- A fixed deduction of RMB 12,000 per year (RMB 1,000 per month) is allowed during the mortgage period. The deduction may be claimed only for one first property for each taxpayer.
- A married couple may agree to have one spouse claim the entire deduction, but once a deduction method is decided, it cannot be changed for one calendar year.
- A taxpayer must maintain relevant documents, such as the mortgage contract and interest payment vouchers to support the deduction.

Housing rent:

- These expenses refer to rent incurred in the main work location of a taxpayer, where the taxpayer and his or her spouse do not own property.
- The main work location is the city where the taxpayer is employed or where the taxpayer habitually resides if he or she is unemployed.
- A three-level fixed deduction is allowed (*i.e.*, RMB 14,400/12,000/9,600 per year (RMB 1,200/1,000/800 per month, respectively)), with the exact amount of the deduction depending on the main work location.
- Only one spouse may claim the deduction if the main work locations of the married couple are the same city. However, if the main work locations are two different cities and neither spouse owns property, both parties may claim the housing rent deduction.
- A taxpayer must maintain a housing rental contract for which the taxpayer is a lessee to support the deduction.
- A taxpayer and his or her spouse cannot claim the deduction for both mortgage interest and rent.

Elderly parent support:

- These expenses are incurred by a taxpayer to support his or her parent age 60 or older.
- The deduction also is available where a taxpayer supports his or her grandparent age 60 or older and the son(s) or daughter(s) of the grandparent is (are) deceased.
- A fixed deduction of RMB 24,000 per year (RMB 2,000 per month) is allowed. Where a taxpayer is not the only son or daughter of his or her parent, the fixed deduction may be apportioned among the taxpayer and his or her siblings. The apportionment method must be supported by a written agreement and cannot be changed in

© 2018. For information,
contact Deloitte Touche Tohmatsu Limited.

a calendar year. In addition, the deduction claimed by each son or daughter cannot exceed RMB 12,000 per year (RMB 1,000 per month).

- The fixed deduction will not be multiplied if the taxpayer has more than one parent to support.

Administrative procedures

- Before a taxpayer claims the additional itemized deduction for the first time, he or she must submit relevant information to the withholding agent or the tax authorities. The withholding agent then must submit the information to the tax authorities as soon as possible. The taxpayer is responsible for the accuracy of the information, and if there are any changes, the taxpayer must update the information in a timely manner. Relevant information includes the personal identity information of the taxpayer, his or her spouse, dependent children and parents, as well as any other information related to the deductions that is required by the tax authorities.
- The withholding agent must calculate the tax according to the information provided by the taxpayer and cannot change the information without the taxpayer's consent. If the withholding agent discovers that the taxpayer has provided false information, it must ask the taxpayer to make corrections; if the taxpayer refuses to do so, the agent must notify the tax authorities.
- Relevant government agencies, entities, and individuals are required to provide assistance if so requested by the tax authorities that are verifying the information relating to the additional itemized deductions. If a taxpayer refuses to provide further information or is found to have provided false information for the first time, the tax authorities will notify the taxpayer and the withholding agent. If the same activities recur within five years, the activities will be recorded in the taxpayer's credit rating records and the taxpayer may face joint disciplinary actions from various government agencies.

Special provisions for foreign individuals

According to the Consultation Paper, if eligible, a foreign individual can choose to claim the additional itemized deductions for children education expenses, continuing education expenses, and residential mortgage interest or housing rent, or continue to enjoy the existing nontaxable benefits relating to children education expenses, language training expenses, and the housing rent subsidy. However, a foreign individual cannot enjoy both types of treatment for the same kind of expenditure.

Deloitte's view

One of the most notable changes made by the new IIT law is the introduction of the additional itemized deductions, which reflects the government's intention to improve the living standards of the general population. Designing a mechanism to address the diverse needs of taxpayers is a challenge for the government. According to the Consultation Paper, most items (except for the health care expense deduction) adopt a fixed deduction method, which is more practical and convenient to manage from the tax authorities' perspective, as compared to allowing a deduction for the actual expenses incurred. The Consultation Paper provides taxpayers with some flexibility in arranging the deductions (*e.g.*, a married couple may agree on how to share certain deductions) so that taxpayers may better enjoy the benefits. In all cases, however, taxpayers and withholding agents should be aware of the various compliance requirements.

Taxpayers: Individuals who claim the additional itemized deduction are responsible for the accuracy of the information and will need to ensure that the information is submitted in a timely manner. The submission of inaccurate information may be recorded in the individual credit rating system and the individual may be subject to sanctions by various government agencies. Therefore, taxpayers should familiarize themselves with the compliance requirements relating to the additional itemized deductions and take steps to ensure compliance. It is particularly important for taxpayers to collect and maintain the relevant documents, such as receipts ("Fapiao") and payment certificates to support the deductions and be prepared for any potential future audits by the tax authorities.

Foreign individuals working in China: Foreign individuals working in China have been concerned about whether the existing nontaxable benefits-in-kind (*i.e.*, the noncash benefits-in-kind (or those provided on reimbursement basis) for expenses incurred for relocation, housing, meals and laundry, home leave, language training, and children education) would continue under the new IIT law. The Consultation Paper suggests that certain nontaxable benefits-in-kind, such as those relating to children education, housing, and language training would continue to apply under the new law

© 2018. For information,
contact Deloitte Touche Tohmatsu Limited.

and, therefore, foreign individuals may choose to continue to enjoy such nontaxable benefits-in-kind or claim the additional itemized deductions.

Withholding agents (employers): According to the Consultation Paper, employers as the withholding agents are responsible for the collection of the taxpayer's information, submission of the information to the tax authorities, withholding of tax, and reporting relating to the additional itemized deductions. Therefore, employers may need to set up new internal control systems and seek technology solutions to automate the management process if they have large populations of employees.

Considering the impending implementation of additional itemized deductions and the new administrative burdens that may arise, employers should take steps to review and update their existing compensation and benefits policies for different groups of employees (*e.g.*, foreign expatriates, locally hired employees, and senior management), set up systems for information collection and reporting, and communicate with their employees about the impact of the new IIT law. The Consultation Paper is not entirely clear as to whether an employer, as the withholding agent, is responsible for verifying the authenticity of the information submitted by employees, but the paper requests withholding agents to remind taxpayers to correct information if the withholding agent discovers that the information is inaccurate, and report to the tax authorities if the taxpayer refuses to correct the information.

Although the Consultation Paper does provide guidance on certain issues, some questions still may need clarification (*e.g.*, how is the "first property" defined for the deduction of residential mortgage interest, how to handle a situation where a taxpayer's marital status changes in a calendar year). Affected enterprises and individuals should monitor regulatory developments.

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

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

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

Fei Li (Shenzhen)
Director
Deloitte People's Republic of China
ffli@deloitte.com.cn

Frank Tang (Chongqing)
Partner
Deloitte People's Republic of China
ftang@deloitte.com.cn

Singapore:
Updates on tax exemption of employer's contribution to nonmandatory overseas pension fund or social security scheme under the NOR scheme

What is the change?

On October 19, 2018, the Inland Revenue Authority of Singapore (IRAS) updated its website to remove the requirement that the employer's contributions made on or after January 1, 2014, to an overseas nonmandatory pension or social security scheme must be charged or recharged to a Singapore entity and the claim for corporate tax deduction forgone, to enable the individual taxpayer to avail to the tax exemption of an employer's contribution to a nonmandatory overseas pension fund or social security scheme under the NOR scheme.

What does the change mean?

Currently, an individual who qualifies for the NOR status may apply for the tax exemption of an employer's contribution to a nonmandatory overseas pension fund or social security scheme, subject to meeting all of the following conditions:

© 2018. For information, contact Deloitte Touche Tohmatsu Limited.

1. The individual is neither a Singapore citizen nor a Singapore permanent resident;
2. The individual's employment income is at least S$160,000; and
3. The employer must not claim a corporate tax deduction on the contributions made to the nonmandatory overseas pension or provident funds and social security schemes up to the NOR exemption cap.

Previously, the IRAS has ruled that condition (iii) above would not be satisfied if the employer's contributions to the nonmandatory overseas pension or provident funds were not charged or recharged to a Singapore entity. The IRAS has now clarified that condition (iii) above would be satisfied in the scenarios below, as no corporate tax deduction on the contributions would be taken by the employer in Singapore:

1. The contribution is borne by a foreign company and is not charged or recharged to the Singapore employer; or
2. The employer is a tax-exempt body or representative office that is not required to file a tax return.

The removal of the above requirement would not have an impact on employees of investment holding companies or service companies. Employees of investment holding companies would not be able to enjoy the NOR tax concession on the employer's contributions made to any nonmandatory overseas pension or social security scheme on or after January 1, 2014.

Beginning from the year of assessment (YA) 2016 (*i.e.*, for accounting periods ending 2015), employees of service companies can only enjoy the NOR tax concession if the company prepares its tax computation on a "normal trading company" (NTC) basis. Employees of service companies that adopt the "cost plus mark-up" (CM) basis of tax assessment will no longer be able to enjoy the NOR tax concession after YA 2015 (*i.e.*, for accounting periods ending in 2014).

For individual taxpayers with the NOR status who previously did not claim the tax exemption of an employer's contribution to a nonmandatory overseas pension fund or social security scheme due to such contributions not being charged or recharged to a Singapore entity, there is now an opportunity to claim the exemption retrospectively and seek reassessment. The request for reassessment is available for YAs 2017 and 2018 (income years 2016 and 2017). Taxpayers who wish to avail to the tax concession retrospectively may submit the NOR application forms to the IRAS for review and reassessment within four years from the year that the assessment is raised. For example, if the assessment for YA 2017 was raised on September 22, 2017, the taxpayer would have until December 31, 2021 (*i.e.*, four years from the year ended December 31, 2017), to submit a request for reassessment.

Deloitte's view

The above was a 360-degree turn to the original position which was accepted by the IRAS on the claim for the tax exemption of an employer's contribution to a nonmandatory overseas pension fund or social security scheme under the NOR scheme. Accordingly, for taxpayers who have previously qualified for the tax exemption on an employer's contributions that were not charged or recharged to a Singapore entity, they should review whether or not to claim the exemption for YAs 2017 and 2018 (income years 2016 and 2017). The application for reassessment should be made as soon as possible, as this is subject to IRAS agreement.

Taxpayers should consider the following factors in deciding to pursue the reassessment:

- The potential NOR tax savings on pension exemption versus the administrative costs of seeking reassessment.
- The impact of amending the Singapore tax assessment on any foreign tax credit claims in the employee's home-country/third-country tax returns (*e.g.*, United States), where applicable and whether the retrospective application for the NOR pension concession would yield an overall tax advantage.
- For taxpayers whose Singapore tax liabilities are borne by the employer, there will be added administrative steps to request for tax refunds arising from NOR tax savings, to be made directly to the employer.

— Jill Lim (Singapore)
Leader
Deloitte Singapore
jilim@deloitte.com

Sabrina Sia (Singapore)
Leader
Deloitte Singapore
ssia@deloitte.com

© 2018. For information, contact Deloitte Touche Tohmatsu Limited.

Christina Karl (Singapore)
Partner
Deloitte Singapore
ckarl@deloitte.com

Michele Chao (Singapore)
Partner
Deloitte Singapore
micchao@deloitte.com

Lisa Alton (Singapore)
Partner
Deloitte Singapore
lialton@deloitte.com

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about to learn more about our global network of member firms.

© 2018. For information, contact Deloitte Touche Tohmatsu Limited.