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India: Tax department notifies income-tax return forms for financial year 2019-20

Background

The Central Board of Direct Taxes has recently notified new income-tax return (ITR) forms (ITR 1 to ITR 7) to enable taxpayers to file their returns for the 2019 – 20 financial year (FY). This NewsFlash captures the significant changes relating to ITR forms (ITR 1, also known as Sahaj, and ITR 2) applicable to individual taxpayers who do not have business/professional income.

What is the change?

The tax return forms currently notified will apply to the same category of taxpayers as in the preceding financial year. The key changes in the disclosure requirements introduced in the forms are as follows:

- Where the taxpayer is required to file a return only on account of notified high spending/deposit, he or she is required to provide actual amount spent/deposited during the FY. The level of taxable income is disregarded in this instance. High spending/deposit refers to the following:
 - Foreign travel expenditure in excess of INR 0.2 million for self or for any other person

- Electricity expenditures in excess of INR 0.1 million during the financial year
- A deposit of aggregate amounts exceeding INR 10 million in one or more current bank accounts during the year
- In order to allow taxpayers to provide details of tax-savings investments made during April 2020 and June 2020, but to be claimed against income in FY 2019 – 20, a new schedule has been introduced.
- Considering the permissible use of PAN (the tax identification number) and Aadhaar (unique identification number based on biometrics) interchangeably, the form now requires the Aadhaar number or PAN to be reported as against only PAN (earlier) for certain mandatory disclosure (*e.g.*, the PAN of the tenant/co-owners of the property, of the buyer for the transfer of immovable property, of a specified person whose income is to be included in the income of the taxpayer, etc.).
- Unit holders of pass-through entities (PTI) are now required to disclose losses to be carried forward pertaining to PTI in their hands in the carried-forward loss schedule separately. Also, there is a change in the disclosure requirement relating to capital gains and dividend income earned by the unit holder of PTI.

Source: GSR 338(E) dated 29 May 2020

Deloitte's view

Considering the extension of the due date for filing tax returns for salaried employees from 31 July 2020 to 30 November 2020, the timely issue of new forms with minimal changes, as well as provisions capturing the relaxations provided by the government for compliances/investments, will give sufficient time for taxpayers to collect additional information that needs to be reported in the tax return forms. This is a welcome step.

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

Ireland: New Revenue guidance for temporary assignees to Ireland

What is the change?

Where a non-resident individual who holds a non-Irish employment works temporarily in Ireland for a local entity, Irish PAYE implications can arise for either the foreign employer or the local entity.

Revenue guidance on this area has existed since 2007. The 2007 guidance was updated in 2016 and again in 2018 to incorporate certain OECD commentary (which is not reflected in Irish law). While the updated guidance in 2018 clearly set out Revenue's position, it was broadly unworkable for employers in a practical sense.

Revenue issued updated guidance on 11 December 2019 which appeared to re-introduce a single tax year threshold and remove the multi-year aggregate tests introduced in the earlier guidance. The December guidance note promised that additional clarification would be provided on this.

On 24 June 2020, Revenue released the updated guidance which states for employees who are travelling to Ireland from a country with which Ireland has a Double Taxation Agreement ("DTA") and who satisfy certain treaty conditions:

- "[W]ith effect from 1 January 2020, Revenue will not enforce the operation of PAYE in cases where 60 or less workdays are spent in the State in a tax year. Each year should be considered on a standalone basis."
- Separately, Revenue have confirmed that where an individual employed under a foreign employment performs duties in Ireland for no more than 30 days in aggregate in a tax year, those days may be disregarded. Again, Revenue have confirmed from 1 January 2020, each year should be considered on a standalone basis.

This is a very welcome amendment and removes some of the cumbersome administration for employers when dealing with temporary assignees and Short Term Business Visitors (STBVs).

What does the change mean?

Impact of New Guidance – Temporary assignees from 1 January 2020 – up to 60/30 workdays per year:

The first item to consider is where the individual is tax resident, specifically if the individual is tax resident in a country with which Ireland has a DTA or in a country with which we do not have a DTA (referred to as non-DTA countries). This is important, as separate thresholds apply depending on the country of residence.

Where the individual is tax resident in a DTA country, no Irish PAYE obligations arise provided the employee is in Ireland for 60 workdays or less in the tax year and the conditions for exemption under the DTA are met.

The guidance separately provides that where an individual is employed under a foreign contract of employment, provided the total workdays in Ireland in the tax year do not exceed 30 workdays, these days may be disregarded. It would appear that Revenue are allowing a 30-day threshold for individuals who are either not resident in a DTA country or for those who do not satisfy the conditions set out in the DTA. Where the 30-day threshold is exceeded in these scenarios, Irish PAYE would apply.

It is important to note that each tax year is now viewed in isolation. Days spent performing duties in Ireland in earlier consecutive tax years are no longer considered in determining current year PAYE reporting obligations.

Previous Guidance Temporary assignees position pre 1 January 2020 up to 60/30 workdays per year: For a summary of the prior guidance, please see our prior newsflash.

URL: <https://www2.deloitte.com/ie/en/pages/tax/articles/ges-newsflash-temporary-assignees-to-ireland.html?id=us:2sm:3na:gis:awa:tax:071020&sfid=7011O0000038IAGQAY>

Impact of New Guidance – Temporary assignees from 1 January 2020 – greater than 60 workdays per year:

Where an individual resident in a DTA country spends more than 60 workdays in Ireland during a tax year, Revenue are prepared to grant a PAYE Dispensation provided the conditions as set out in the relevant DTA article are satisfied:

“Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- a. The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and
- b. The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c. The remuneration is not borne by a permanent establishment which the employer has in the other State.”

Revenue have also set out their technical interpretation of the conditions and what would be required for these to be met. The main points are set out below:

- In relation to (b) above, Revenue have stated “In a change from previous practice, Revenue will consider the legal nature of the term employer in determining whether a genuine foreign employment exists.”
- In relation to (c) above, Revenue have stated that where the foreign employer has no permanent establishment in the State, Article 15(2)(c) is not relevant and requires no further consideration. Where a permanent establishment does exist, the re-charge of costs must be considered; and the guidance indicates that where the costs are borne fully or partially then the condition will not be met.
- The guidance does however confirm that “management charges (with a mark-up) are not considered recharges for the purpose of interpreting this article.”

Where the conditions outlined above are met, it will be necessary to apply for a dispensation from the operation of PAYE. A new simplified procedure is now in place which appears to remove the obligation for employers to sign a written acknowledgement of liability and provide evidence of withholding in the foreign jurisdiction.

The application will still need to be submitted to Revenue within 30 days of arrival however Revenue will not penalise an employer for failure to give the required notice where it was not expected or readily apparent that the individual will be present in Ireland for more than 60 workdays.

The application will need to be made for each year of assessment.

Where a PAYE dispensation is not granted, payroll should be operated in respect of all workdays spent in Ireland in the tax year. The Revenue Payroll Notification will operate on a week 1 basis.

Deloitte's view

The re-introduction of a single year threshold removes the uncertainty and also the time-consuming administration burden of employees with multiple year travel created by the 2016 and 2018 guidance notes and provides much needed clarity for employers. It is very welcome that Revenue have provided a practical approach for business travel which will encourage companies to continue bringing temporary assignees and business visitors to Ireland. The fact that the new guidance has reverted to applying DTA conditions effectively aligns the PAYE withholding position with the employee's income tax position and removes much of the ambiguity in this area.

Given the nature of temporary assignments and business travellers, it is not always realistic for employers to be able to identify relevant employees and gather the relevant information required for the applications for release from PAYE obligation within 30 days. While the deadline remains unchanged in the update, Revenue have reiterated that employers will not be penalised where it was not known at the outset that the individual would spend more than 60 workdays in Ireland during the tax year.

Non-Irish employers who had been awaiting this update should now review all temporary assignments to Ireland to ensure the correct payroll treatment is being applied as this new guidance applies with effect from 1 January 2020. Also, employers should ensure that they have complied with the guidance in place for earlier years.

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

— Daryl Hanberry (Dublin)
Partner
Deloitte Ireland
dhanberry@deloitte.ie

Billy Burke (Dublin)
Partner
Deloitte Ireland
bburke@deloitte.ie

Colin Forbes (Dublin)
Partner
Deloitte Ireland
cforbes@deloitte.ie

Sweden: Extended time limit for expert tax

What is the change?

In a memorandum for the Swedish Budget Bill for 2021, the Swedish Ministry of Finance has proposed that tax relief for foreign experts, researchers, and other key personnel who are in Sweden on limited stays should be extended from three years to five years.

Background

In order to facilitate the recruitment of foreign experts, researchers, and other key personnel in Sweden, Swedish legislation currently allows tax relief for the first three years of a time-limited stay (*i.e.*, where the intention is to be in Sweden no more than five years) This is known as expert tax relief and applies if certain conditions are met. If an individual is subject to expert tax, 25% of their employment income may be exempted from taxation under the tax-relief measures. In addition, certain relocation benefits, including school fees, can be provided tax-free. The tax-free income and benefits are also exempted from employer social security contributions.

Though the amendment is proposed to enter into force on January 1, 2021, individuals can also apply for expert tax-relief under the new rules if their first-time stay in Sweden occurs after May 31, 2020. Individuals arriving in Sweden from June 1, 2020, can therefore be granted tax relief under the new rules by submitting a new application with the Swedish Taxation of Research Workers Board (even in cases where a decision has already been granted for a three-

year tax-relief period). For stays in Sweden that begin during the period between June 1 and December 31, 2020, the application must be submitted to the Swedish Taxation of Research Workers Board by May 31, 2021.

Deloitte's view

The extended time limit for expert tax is welcomed as an incentive to attract key talent to Sweden, making it more competitive compared to other countries in Europe, and in particular the Nordic region. It would result in significant additional tax savings for individuals by extending the period of relief to five years instead of three years. It will also result in further savings for employers who employ foreign experts, researchers and other key personnel due to lower social security costs and may provide additional flexibility for the employer in terms of the salary package offered as a result.

— Anna Sabelström Holmberg (Stockholm)
Partner
Deloitte Sweden
aholmberg@deloitte.se

Sharon Lion (Stockholm)
Senior Manager
Deloitte Sweden
shlion@deloitte.se

Laurita Krisciunaite (Malmö)
Associate
Deloitte Sweden
lkrisciunaite@deloitte.se

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