



Global InSight

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Singapore: Immigration updates

Summary

We wish to provide updates from the Ministry of Manpower (MOM) as part of its measures to moderate demand for foreign manpower in Singapore.

Changes that will apply to all sectors in 2014

1 January 2014 – Increase in qualifying salary for new Employment Pass (EP) application from SGD 3,000 to SGD 3,300

- Young graduates from recognized institutions may qualify if they earn a fixed monthly salary of SGD 3,300
- Older applicants will have to command higher salaries to qualify, commensurate with the work experience and quality they are expected to bring

1 August 2014 – Companies that intend to hire foreign professionals/executives will be required to advertise job vacancies on a new jobs bank administered by the Singapore Workforce Development Agency before an EP application is submitted to MOM. The advertisement must be open to Singapore citizens and posted for at least 14 calendar days. Please also refer to the Tripartite Guidelines on Fair Employment Practices at to comply with the hiring requirements.

URL: <http://www.tafep.sg/fairemployment.asp>

Small companies with 25 or fewer employees and jobs that pay a fixed monthly salary of SGD 12,000 and above may be exempted from the job advertising requirement. MOM has clarified that this number includes both local and foreign employees.

Deloitte's view

Given the recent change in government immigration policy to manage the constitution of workforce and to ensure that Singapore citizens remain at the core of Singapore's workforce, the MOM is now more stringent when considering the applications for EP. The processing time for applications of EP may take longer and MOM may reject applications without providing reasons. Accordingly, companies should take this into consideration when managing the movement of foreign employees into Singapore.

Singapore: Rationalizing the individual taxation of accommodation benefits

Summary

The Singapore Minister for Finance presented the 2013 Budget Statement on 25 February 2013 and had proposed changes on the taxation of accommodation benefits provided by employers which has remained unchanged since the 1960s.

Based on feedback received, the Inland Revenue Authority of Singapore (IRAS) has provided clarity on the taxation of accommodation benefits which is summarized below.

Taxation of accommodation benefits

Up to Year of Assessment 2014 (income year 2013) – The taxable value of housing accommodation benefits provided by an employer to an employee is computed on concessionary bases as follows:

1. Where an employer provides housing accommodation to an employee (including a director whose remuneration is equal to or more than the annual value (AV) of the premises), the taxable value of housing accommodation is the lower of 10% of employment income, or the annual value (AV) of the premises, less rent paid by the employee or director;

Where an employer provides housing accommodation to a director whose remuneration is less than the AV of the premises, the taxable value of housing accommodation is the AV of the premises;

2. Where furnished housing accommodation is provided, the taxable value of furniture and fittings is computed based on the prescribed rates provided by the IRAS for each item of furniture and fittings;
3. The taxable value of the gardener benefit provided by the employer is computed based on SGD35 per month or actual wages paid by the employer, whichever is lesser.

Hotel Accommodation

4. The taxable value of hotel accommodation is computed based on a prescribed IRAS formula and is a function of the number of days of the hotel stay, the number of family members staying in the hotel, the latter's relationship to the employee, and 2% of the basic salary of the employee for the duration of the employee's stay at the hotel.

With effect from Year of Assessment 2015 (income year 2014) – To make the tax system more equitable, the taxation of the accommodation benefits provided to employees (including directors) according to market value is as follows:

1. The taxable value of housing accommodation provided will be the AV of the premises for the period of occupation, less rent paid by the employee;

The AV of the premises is the estimated annual rent of the property if it is rented out, excluding the furniture, furnishings and maintenance fees, which is available on the property tax bill issued by the IRAS or via IRAS' e-Valuation List service.

As an administrative concession, employers can elect to report the actual market rent paid for the furnished premises (including furniture and fittings) instead of using the AV. In which event, employers are not required to declare the taxable value of furniture and fittings separately based on the percentage of the AV (illustrated below).

2. The taxable value of furniture and fittings will be computed based on:
 - a. 40% of the AV if the premises is partially furnished i.e. only fittings (e.g. lightings; air-conditioner/ ceiling fan, water-heater) , or
 - b. 50% of the AV if the premises is fully furnished (i.e. both fittings and furniture/ household appliances are provided).
3. The taxable value of the gardener benefit provided by the employer is computed based on the actual wages paid by the employer.

Hotel Accommodation

4. The taxable value of hotel accommodation will be the actual costs incurred by the employer for the hotel benefit provided to the employee, less amount paid by the employee.

Please note that where the employee is reimbursed for the rental of accommodation which he had concluded with the landlord or paid housing allowance the amount reimbursed or allowance paid will be taxable in full.

Deloitte's view

With clarity now provided by the IRAS on the taxation of accommodation benefits provided by employers, employers in Singapore should ensure that appropriate reporting of the taxable accommodation benefits in its employees' Return of Employee's Remuneration (Forms IR8A/IR8E).

In addition, the IRAS has recognized the administrative difficulties faced by employers in the reporting of the AV of the premises as property tax bills may not be readily available to companies. To ease the administrative burden on employers in respect of the reporting of the housing benefit, it has granted an administrative concession for employers to use the actual rent paid.

With the changes, it is expected that the assessable value of housing benefit will increase and accordingly, the employee's tax liability will also increase. Employers may wish to accrue for the incremental tax costs arising from the above, where relevant. In addition, employers may wish to review their HR policies relating to the provision of housing benefits versus the payment of allowances to support the housing cost of employees in Singapore, as the increase in the value of the taxable housing benefit may negate the administrative burden of managing the housing lease.

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Global Rewards Updates:

France: Draft Finance Bill 2014 and other recent developments impacting share plans

Background

The French government announced a package of measures on 25 September 2013. The measures are part of the draft Finance Bill for 2014 and include an exceptional tax on high remuneration paid by companies. This Finance Bill has already undergone several modifications and will not be final until end of December 2013. The Constitutional Court will have a final review in December 2013 and the provisions might be invalidated then.

If the proposal is enacted without modification, affected companies would have to pay tax of up to 75% of the remuneration exceeding EUR 1 million (taking into account the exceptional tax and relevant social contributions). This tax is intended to replace the tax that would have required wealthy individuals in France to pay a 75% effective income tax rate on professional income exceeding EUR 1 million (but that was invalidated by the Constitutional Court in 2012). The new tax actually amounts to 50% (which, when added to the uncapped company social charges of about 25%, brings the overall taxation to at least 75%).

As presently drafted, if enacted, the proposal for exceptional tax would be effective from the current calendar year.

Exceptional tax on high salaries paid by companies

The temporary tax would be levied on the portion of gross remuneration paid to employees and executives that exceeds EUR 1 million per year per individual. This new tax would apply to remuneration paid or attributed in 2013 and 2014, and would be capped each year at 5% of the company's turnover in the relevant year. At the moment, there is no clarification on how the cap will work.

The types of remuneration and benefits falling within the scope of the new tax are broad and this would include all types of compensation including share plans.

The tax point for compensation refers to the date on which it becomes an expense for the company (i.e. the tax would apply if the company incurs an expense in 2013 or 2014). This leaves open a certain number of questions including how accruals and intergroup recharges will impact the tax liability.

French qualified share plans are specifically included in the scope of the temporary tax, for the year of grant. The tax will apply on the fair market value of the underlying shares or the IFRS2 value (i.e. the same basis as for the employer social charge due at grant).

It is unclear whether nonqualified French plans will follow the rules applicable to general compensation (i.e. be included for the year the company incurs an expense) or will be treated the same as qualified plans (i.e. be included for the year of grant).

Capital gains

Apart from the temporary tax mentioned above, the Draft Finance Bill also introduces greater taper relief for capital gains therefore bringing the overall taxation down. A 50% taper relief would be available for shares held for two years or more (previous rate was of 20%). This percentage increases to 65% after eight years. These new rates should apply to 2013 income. Entrepreneurs, retirees and other specific categories of taxpayers would benefit from a more favorable treatment than that described above.

Action

- Companies should take note of the proposal to levy a temporary tax on the local employer in France on the portion of remuneration paid to employees and directors that exceeds EUR 1 million and consider whether they might be impacted.
- They should identify the number of employees and executives that may be affected by the proposed changes and consider the potential costs. In doing so, it is important to consider compensation widely to include all benefits (e.g. pension, director fees, expatriate benefits as well as share awards) in excess of EUR 1 million.

Trusts

Legislation introduced in 2011 brought significant changes in the taxation of trusts and created strict reporting obligations for them if the settlor or at least one of the beneficiaries is a French resident or if any of the trust assets is located in France (see our Global Equity News and our GRU of January 2013 for more details). A new proposal now provides for increased penalties for non-compliance with the reporting obligations introduced back in 2011 from €10,000 to €20,000 (as a minimum) and from 5% to 12.5% of underlying assets (as a maximum). It also intends to create a registrar for trusts and include within the scope of reporting any trust whose trustee is a French resident, even though none of the beneficiaries, settlors or assets are located in France. Finally, some new decrees now require that all filings are made on the official forms provided by the French tax administration.

URL: http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/Tax/us_tax_GlobalEquityNews2012_09182012.pdf

URL: http://www.deloitte.com/assets/Dcom-Global/Local%20Content/Articles/Tax/Newsletters%20and%20alerts/Global%20Rewards%20Updates/dttl_tax_alert_France_January-2013.pdf

Action

While regulations published following the 2011 legislation mentions that certain company-established trusts arrangements should be excluded from the requirements, with the increased penalties applicable, it is important that companies review their existing arrangements to ensure they do not fall outside of the narrow scope of the exemption. As a reminder, the rules surrounding trusts also apply to any other type of arrangement which can be assimilated to a trust even if they are not called "trust".

Foreign Bank Accounts

French taxpayers have to report any foreign bank accounts they hold, on an annual basis. This reporting requirement has existed for many years but there is now an increased focus on this requirement. Every year, and 2013 is no exception to this, new legislation has been introduced to increase the penalties and scope of consequences for non-reporting.

Action

Many French employees and executives participating in share incentive plans from non-French companies will effectively hold non-French bank accounts and they should ensure they correctly report these. There is an official voluntary disclosure procedure in place for those who have not reported foreign bank accounts in the past.

Other recent developments

Sourcing of stock option plans – Since 2012, French tax authorities apply OECD sourcing principles to employee share plans. A recent Supreme Court decision held that even pre-20 June 2007 qualified share option gains realized by a non-resident in a cross border situation is compensation in nature and should be taxed in France with respect to the French source gains.

Although gains from stock options granted before 20 June 2007 are not subject to any withholding obligations, French employers are still required to report them (and they are taxable in the hands of employees for the portion sourced in France). Employers should therefore consider the decision from the Supreme Court when reporting pre-20 June 2007 qualified awards.

Non-cooperating jurisdictions – France has recently added several countries to the list of non-cooperating jurisdictions including Jersey, Bermuda, and the British Virgin Islands. This triggers the application of increased tax rates and the potential non application of certain deductions. Companies should therefore identify any structure involving these countries, for example EBTs, and consider how their existing practice would be impacted by non-cooperative status.

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Global Rewards Updates:

Switzerland: New instructions on social security sourcing of equity income in cross-border cases

Background

A new law harmonizing the tax treatment of employee equity plans entered into force across Switzerland on 1 January 2013. In cross-border cases, this tax legislation applies the OECD's recommendations by allocating gains to Switzerland based on the part of the vesting period for which the employee was liable to Swiss taxes on employment income.

In Switzerland, social security contributions are collected by regional offices who are charged with applying federal social security legislation.

Although the change was made to the Swiss tax code, the Swiss social security law had not incorporated the cross-border allocation rules.

Some regional social security offices considered that the sourcing rules were not applicable for the calculation of social security contributions and continued to apply rules in place before 1 January 2013.

New instructions on social security sourcing of equity gains

A growing number of queries by employers regarding the approach to apply led the Swiss Federal Social Security Administration to publish guidelines regarding the sourcing position for the calculation of social security contributions.

According to new instructions published this month, social security contributions must be calculated proportionally to the vesting period, applying the same allocation rules as for direct income taxes.

This approach could lead to a double social security exposure on all or part of a gain for employees working in Switzerland for part of the vesting period where they have also worked in a country with a different method of calculating the equity gain for social security purposes.

Given that double contributions are prohibited under European regulations and international social security agreements, the Swiss authorities are currently considering the practicalities of how such double charges can be relieved.

One significant difference between these social security instructions and direct tax law is that the social security administration has included transitional provisions stating that these new rules apply even to share awards and options granted prior to 1 January 2013.

Action

Companies should review their sourcing approach for cross-border equity gains for social security purposes and consider the impact of the new guidelines. In many cases, proportional contributions in the countries worked in during the vesting period are not supported by international social security legislation.

Some companies may have received information from their regional social security office that they did not have to apply sourcing to their existing awards. For companies who received this information and who want to apply the non-sourcing position for existing awards in 2013, they will need to apply for a waiver from the social security office. Deloitte can assist in requesting a waiver.

If, as a result of the new Swiss interpretation, a double charge arises on all or part of the equity gain, it is recommended that employers submit such cases to the Swiss social security authority with proof of the risk of double contribution to receive approval to not withhold Swiss social security contributions. Deloitte can also assist with such requests.

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