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Czech Republic: Legislative changes in 2014

Personal income tax update

On 27 November 2013, The Chamber of Deputies approved the legal measures that amend, among others, the Income Taxes Act (referred as "ITA"), in particular in connection with the upcoming recodification of private law, i.e., adoption of the new Civil Code Act No. 89/2012 Coll. (further referred to as "NCC"). With effectiveness as from 1 January 2014, the following changes and concepts will be applicable in the ITA:
URL: http://www.czechlegislation.com/en/89-2012-sb

- The maximum limit for the tax deduction of gifts is increased from 10% up to 15% for individuals.
- The limit for applying withholding tax to taxpayers who did not sign a tax declaration has been increased from CZK 5,000 to CZK 10,000 per month and applies only to income from performance of work agreement.
- Income realized from practical teaching and practical training of trainees and students will be exempt from personal income from employment income tax and social security and health insurance contributions.
- Under current legislation, income from the sale of securities received by individuals is exempt from taxation provided that the period between the acquisition and sale of securities is at least 6 months and an individual holds a maximum of 5% of a company's equity interest in a period of 24 months before the sale of the securities (minority shareholder). The exemption time test has been extended to 3 years and, if the test is not satisfied, the income from the sale of shares shall be subject to personal income tax. An annual threshold of CZK 100,000 for exemption of income (not profit) from the sale of securities is introduced. According to the transitional provisions, the new rules will be applicable on income from sale of securities acquired after 1 January 2014.
- Czech tax nonresidents will be allowed to apply for the tax base deductions and tax discounts according to the Czech Income Taxes Act only if they are tax residents of EU Member States, Norway, or Island and 90% of their worldwide income of the respective calendar year was sourced in the Czech Republic. In order to apply for the tax deductions, the tax authority in the country of tax residency of an individual shall confirm a level of the worldwide income realized by these individuals in the respective calendar/tax year on the special form issued by the Czech Ministry of Finance for this purpose.
- The Act on Inheritance Tax, Gift Tax and Real Estate Transfer Tax has been abolished, and gifts and inheritances will be governed by the Income Tax Act. The inheritances will be fully exempted from taxation. Gifts remain to be tax exempt as under the current legislation, i.e., gifts related to employment or self-employment will remain subject to tax.

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- The "benefit" from interest free loans (in Czech "bezúročná zápůjčka") and special types of gratuitous loans (in Czech "výprosa") shall not be subject to taxation according to the ITA. The newly introduced terms are defined in the new Civil Code.
- We would like to point out that the dividends remain subject to 15% withholding tax.

Deloitte's view

Full impact of the introduction of NCC and of the Act on Business Corporations (replacing the Commercial Code) on the tax legislation is still under review from the professional community. Already it is clear that certain provisions of the tax law have been amended without the intention of doing so. Thus, going forward it is important to follow commentaries of the Financial Authorities and of the courts on the application of the new provisions.

Also, given the current political situation, we can expect that proposed changes for 2015 would be re-shaped.

Social security update

In contradiction to the previous notifications of the authorities, employers will continue to be allowed to submit prescribed forms to the Czech Social Security Administrations using not only electronic ways of communication (e.g., data boxes, e-mails with an electronic signature or "e-Podání" website) but also standard ways, e.g. paper forms.

The cap for the social security assessment base for 2014 is set at CZK 1,245,216 p.a. Similar to the year 2013, health insurance contributions are uncapped.

Based on the official interpretation of the Ministry of Labour and Social Affairs, the legal employer remains responsible for the payments of the Czech social security (same as for health insurance contributions) for employees from EU and treaty countries working in the Czech Republic under the International Hiring Out of Labour structure (IHOL) and subject to the Czech social security system.

Non-treaty economic employees will be registered with the Social Security and Health Insurance Administrations under its economic employer just as it is now.

The 270 days threshold for participation of contractual employees from non-treaty country in the Czech social security system will be cancelled and employee will participate in the Czech pension insurance system from the very first day of employment activities in the Czech Republic. This change affects also employees assigned to the Czech Republic before 1st January 2014.

It is expected that in the course of 2014 totalization agreement between Czech Republic and Russia will come into force. Also, totalization agreement between Czech Republic and US will be extended to the health insurance.

Starting 1 January 2014, all employers will be obliged to submit prescribed forms to the Czech Social Security Administrations electronically, i.e., via data boxes, emails with an electronic signature, or through e-Podání websites. For more details, we recommend visiting the webpage of the Czech Social Security Administration.

The cap for the social security assessment base for 2014 is set at CZK 1,245,216 per annum. Similar to the year 2013, health insurance contributions are uncapped.

Based on the originally proposed changes in the legislation, employees from the EU and treaty countries working in the Czech Republic under the International Hiring Out of Labour structure (IHOL) and subject to the Czech social security system were supposed to be enrolled under their "economic employer" (Czech company), which was going to be responsible for payment of contributions as well. Currently, it is the legal employer that is responsible for registration with the authorities. However, based on ongoing discussion of representatives of Ministry of Labour and Social Affairs, Social Security Administration and professional community regarding this topic, it was agreed that the procedure will remain the same in 2014 as it is currently.

For health insurance purposes, economic employees from the EU or treaty countries will remain registered under their legal employer. Non-treaty economic employees will be registered with the Social Security and Health Insurance Administrations under their economic employer just as it is now.

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Deloitte's view

Discussion between the representatives of Ministry of Labour and Social Affairs, Social Security Administration and Chamber of Tax Advisors on various social security positions covering, for example, incentive compensation (currently not directly regulated by the law) continues. We take an active part in the discussions and will keep our clients posted on the developments.

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New Zealand:
Tax treatment of accommodation and employee allowances

Overview

Employee allowances have been a topic of much debate in New Zealand over the last few years. Following the change in approach to the tax treatment of employee allowances by Inland Revenue, the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill (the "November Tax Bill") seeks to amend and clarify the tax treatment of various expenditure payments and reimbursements to employees, the most significant being employer-provided accommodation.

The extensive consultation process and pushback from taxpayers on this hot topic has led to some very positive changes and sensible outcomes for the tax treatment of accommodation, meal payments, and work-related clothing. Bravo to Inland Revenue and the government for coming to the party.

We outline below the key proposals that, once enacted, will apply from 1 April 2015, with the option of retrospectively for accommodation.

Accommodation

There has been significant debate over the taxation of accommodation throughout the last year, and there has been a clear difference of opinions on the appropriate interpretation of long-standing guidelines.

The November Tax Bill proposes that the value of accommodation provided to a person when it is provided in relation to their employment or service (i.e., accommodation/accommodation allowances provided) is not taxable in a wide range of circumstances. Furthermore, in some instances the new laws may be retrospectively applied in order to mitigate Inland Revenue interpretations on the current laws.

So, when will the provision of accommodation[1] be tax-free?

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[1] The new rules should also neutralise the tax outcomes whether an employee is provided directly with accommodation, if they receive an allowance or they are reimbursed for expenditure. In this article we talk about the provision of accommodation to cover all these scenarios.

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Out-of-town secondments (two-year exemption)

When an employee is required to work at a distant workplace, accommodation and associated necessary travel costs will be exempt from tax provided the employee's time spent at the new location is expected to last for a period of two years or less. These rules cover not just typical "secondment" arrangements, but also other work related trips – such as an overnight stay or a weeklong visit to another workplace. Each time a new trip is undertaken, the two-year clock restarts; however, the clock doesn't restart each time an employee on secondment returns home for the weekend or takes annual leave.

This exemption is generally limited only to accommodation provided to existing employees (i.e., if you hire someone with full knowledge they will need to relocate, then this exemption will not apply, but the existing relocation payment exemption may still have application). However, new employees will qualify for the two-year exemption rule if they are recruited to work at a particular location, but then are sent to work at another location temporarily (e.g., if they are immediately sent away for training). If an employee is also sent to work for another affiliated employer; i.e., they become a new employee of the affiliated employer; the exemption will also apply provided the secondment is expected to be no more than two years. This exemption will deal with secondments of employees between associated companies (e.g., a New Zealand head office and an Australian subsidiary).

If during the period of the project the expectation changes, and it is clear that the secondment will last for more than two years (including if the employee decides they want to stay in the new work location), the accommodation will become taxable at the time the expectation changes. Similarly, if at any time the employee receives a tax-exempt relocation payment associated with the purchase of a new home, the exemption will stop.

Projects of limited duration (three-year exemption)

In circumstances where an employee is deployed to work on a project at a distant workplace and the principal purpose of the project is the creation, enhancement, or demolition of a capital asset, the provision of accommodation and associated necessary travel costs may be exempt for up to three years. In order to qualify for this exemption, the project must be carried out under a contract between the employer and an unassociated party (e.g., the employer has been engaged in a construction contract to build something for a third party). The employee's role must have clear expected start and end dates, the employee must be working almost exclusively on the project, and there must be a clear expectation of the employer that the employee will be working on the project for no more than three years.

If it becomes clear that the employee will be working away from home for more than a three-year period, the exemption will no longer apply (as is also the case with the two-year secondment rule). The project itself can last for more than three years; however, for the exemption to apply to a specific employee, the employee must have reasonably been expected to work on the project for no more than three years.

As with out-of-town secondments, the exemption will also stop if an exempt relocation payment is made in respect to the purchase of a new house. However, unlike the out-of-town secondments exemption, this exemption can be applied to new employees.

Canterbury earthquake relief

The bright-line tests mentioned above can be extended for up to five years if the employment is in relation to a Canterbury earthquake recovery project. Employees receiving accommodation while working on the recovery or rebuild in the Greater Christchurch area are entitled to exemptions dependent on when they arrived, as follows:

- A five-year exemption when the employee's date of arrival is in the period from 4 September 2010 (the date of the initial earthquake), to 31 March 2015;
- A four-year exemption when the employee's date of arrival is in the period from 1 April 2015, to 31 March 2016; and
- A three-year exemption when the employee's date of arrival is in the period from 1 April 2016, onwards (for arrivals up to 31 March 2019).

From 1 April 2019, the normal three-year rule in respect of capital projects will apply.

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It is pleasing to see that the proposals seek to apply retrospectively to employees who were deployed to Christchurch at the time of the initial earthquake.

Conferences and overnight stays

In circumstances where an employee is required to attend a work-related conference or training course that requires an overnight stay, the accommodation or accommodation payment provided to the employee is tax-exempt. The proposal covers both local and out-of-town conferences for employees, as there may be situations where an employee is provided accommodation in their local area of residence during a conference for reasons such as networking.

Multiple work places

The November Tax Bill proposes that the provision of accommodation to employees working in more than one workplace on an ongoing basis will be exempt from tax without an upper time limit. However, this rule will not apply to employees where one of their workplaces is a home office.

What if the accommodation allowance is taxable?

When the exemptions above do not apply and accommodation allowances are to be treated as taxable, the taxable value will be based on the market rental value (less any rent paid by the employee and adjustments for business use of the premises). Special valuation rules exist for employees deployed offshore to expensive locations to ensure taxable incomes are not disproportionately increased.

Some specific valuation rules are also proposed for ministers of religion and for accommodation provided by the New Zealand Defence Force.

Past voluntary disclosures on accommodation

As noted above, the reforms apply from 1 April 2015. However, a transitional provision applies to protect taxpayers that incurred expenditure in relation to accommodation allowances between 1 January 2011, and 31 March 2015, provided that they did not, before 6 December 2012 (the date the Commissioner of Inland Revenue released her statement on the taxation of accommodation), take a position that accommodation is taxable.

Taxpayers who have previously treated accommodation allowances as tax-exempt, but made a voluntary disclosure following the Commissioner’s statement, should in theory be entitled to a refund. This point is sure to be drawn out via submissions on the November Tax Bill.

Meal payments

The November Tax Bill proposes that meal payments incurred due to work-related travel are exempt for up to three months at a particular work location. Furthermore, meal payments and light refreshments incurred outside of work-related travel (such as at conferences) are also exempt in certain circumstances without a time limit.

While officials note that there is an inherent private benefit associated with meals, the proposals seek to take a pragmatic approach and do not require taxpayers to undertake the compliance burden of apportioning amounts.

Clothing

A specific exemption is proposed in the November Tax Bill to make it clear that an allowance to cover the cost of buying and maintaining distinctive work clothing is not taxable. This will include items such as uniforms or protective clothing that are related to the employee’s job.

The November Tax Bill also provides an exemption for allowances paid in respect of plain clothes to employees of a uniformed service who are required to wear ordinary clothing instead of their uniform.

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The proposals seek to better align the employee expenditure rules with the equivalent fringe benefit rules. As such, the outcomes are the same from a tax perspective whether such clothing is provided directly to an employee or whether they are paid an allowance for it.

Other allowances and determinations

There are some adjustments being made to the general rules for expenditure payments to ensure they are working effectively and as intended. To further future-proof the legislation, a determination-making power is being inserted into the tax rules to allow the Commissioner to issue determinations when it is not clear what portion of a particular type of payment should be treated as taxable, e.g., phone allowances. Determinations may be applied for in respect of payments made to a wide group or class of employees, which are made mainly to reimburse expenses associated with deriving employment income where the private element is hard to measure.

Salary sacrifice arrangements and gaming the system

A number of the above exemptions include an avoidance rule to ensure that the exemptions do not apply to employees when the accommodation or meal allowance is provided under an explicit salary trade-off agreement. There are also measures to prevent employees from restarting the respective time limits. For example, an employee's time away (from their secondment location) on leave, weekend breaks, rest periods, or other similar reasons will not restart their time limits, i.e., this time is included as part of their secondment.

The way forward

The proposals in the November Tax Bill take a pragmatic approach and apply the principle that private elements in relation to allowances received should be ignored when low in value or hard to measure, and not provided as a substitute for salary or wages.

The November Tax Bill takes the employee allowances saga of past years in the right direction, and it is clear that officials have approached the proposals with a view that taxpayers should not be burdened with unnecessary compliance costs.

The November Tax Bill has now had its second reading in Parliament and will now be referred to the Finance and Expenditure Select Committee, who will call for submissions on the November Tax Bill.

Please contact a Deloitte tax advisor if you would like to discuss the topic of employee allowances or if you would like to make a submission on the November Tax Bill.

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Sweden:
Lowered tax rate for nonresidents

Overview

The Swedish Parliament has decided to lower the Swedish special income tax for nonresidents (SINK) with 5 percent, from 25 percent to 20 percent. The new tax rate is applicable as from January 1, 2014.

Swedish residency

Generally, an individual is considered to be a tax resident of Sweden if the individual has a real home in Sweden. A person without a real home in Sweden, but who stays in Sweden permanently, is also considered tax resident of Sweden.

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Individuals who spend less than six consecutive months in Sweden, who do not have their real home in Sweden and do not have substantial connections to Sweden are, generally, considered as nonresidents for tax purposes in Sweden.

An individual who is a nonresident in Sweden and who derives income with respect to services rendered in Sweden is taxed according to the Special Income Tax Act (SINK). SINK-tax is a final withholding tax; no deductions are allowed and no tax return is required. Currently SINK-tax is levied at a flat rate of 25 percent; however, from January 1, 2014, this rate will be reduced to 20 percent.

Purpose of the rules

The background to the lowered tax rate is that Swedish tax law provides a possibility for nonresidents to choose to be taxed as tax residents instead of SINK-taxation. Since the Swedish Parliament has decided to lower the tax for tax residents, a reduced SINK-tax was deemed necessary in order to not risk having individuals choosing to be taxed as residents, which would increase the burden for the Swedish Tax Agency and also create an incoherency in the tax system.

Deloitte's view

Even if there are just a few weeks left of the income year 2013, employers might want to consider to defer payments to January 2014 instead of December 2013 in order to benefit from this lowered tax rate as it applies for all taxable reimbursements paid out from January 1, 2014.

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Global Rewards Updates:
France: Final 2014 Finance laws and impact on share plans

Background

Following the Constitutional Court decision, the French government has now adopted into law a package of tax measures. This Global Rewards Update (GRU) is a follow up from our November 2013 GRU. It provides an overview of the key measures relating to equity plans.

75% company tax

The so-called 75% company tax was confirmed in this package of tax measures. Broadly the proposition was not changed from the proposals previously set out.

In summary, the new tax applies on the portion of all compensation exceeding €1 million in a calendar year and it is calculated on a per person basis.

The actual new rate is 50%, which, when added to the estimated uncapped employer social security charges of 25%, brings the overall company taxes to 75%.

The new 50% company tax on compensation exceeding €1million is limited to 5% of the company's turnover in the relevant year. The tax (i.e. the 50% new rate) will be deductible from the corporate tax basis.

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This tax is temporary and is due for 2013 and 2014. It will be reportable and payable prior to 30 April 2014 and 2015 respectively. The tax is applicable to all forms of compensation, including share based incentives. It does not apply to self-employment income or investment income.

French qualified share awards fall within the scope of the tax for the year of grant, based on either (i) face value of shares (i.e. for free share awards this is 100% of the value of the shares, for stock options it is 25% of that value) or (ii) the IFRS2 value of the awards.

The tax point for the other forms of compensation depends on when this compensation is considered an expense for the company. Although it would be expected that non-qualified share awards be treated as ordinary compensation (in absence of any specific provision as for qualified awards), it remains unclear whether the tax authorities may treat non-qualified awards as qualified awards for the purposes of this tax. If treated as qualified awards, the tax would be due for any grants made in 2013 and 2014.

Actions

- Given that the due date for paying and reporting the additional tax for the 2013 calendar year is 30 April 2014, companies should ascertain quickly the exact basis on which the tax applies for that year, taking into account their own specific circumstances.
- Deferred compensation (including non-qualified share awards) and split contract arrangements should be considered with special care. More generally, when reviewing their taxable basis, companies should take into account wider corporate tax implications, in particular the impact of accruals and intercompany recharges.
- Companies operating French qualified awards may also want to consider valuing the awards based on the IFRS2 rules in order to reduce both the 30% tax at grant (i.e. employer social tax which was already applicable) as well as the new 50% tax.

Capital gains

Apart from the temporary tax mentioned above, the package of tax measures confirms the availability of a greater taper relief for capital gains realised from 1 January 2013, therefore bringing the overall taxation down.

As announced, a 50% taper relief applies if shares were held for two years or more (the previous rate was 20%). This percentage increases to 65% after eight years. The blended top rate, including social surtaxes of 15.5% (to which no taper relief applies), ranges from 31.25% to 38%.

The same tax rates could be applicable to certain qualified carried interests, depending on when the investment fund was set up. The start-up stock option plans and Bons de Souscription de Parts de Créateurs d'Entreprise (BSPCE) still benefit from a full social security exemption and a special flat capital gains tax rate.

Actions

- These new measures are welcome news and should help in making employee share plans (notably French qualified plans where pretax deferral encourages holding shares) as well as carried interest, management equity and co-investment plans more attractive.
- Any investment vehicles offered by employers to their employees should however be reviewed to consider whether they benefit from the maximum taper relief.

Changes to Plan d'Epargne en Actions (PEA)

The tax umbrella PEA accounts which, when all requirements are fulfilled, allow income to be exempt from ordinary income tax rates and subject only to 15.5% social surtaxes upon withdrawal, will have to exclude securities such as BSA (Bons de Souscription d'Actions) (known as warrants) as well as preferred shares starting from 2014.

The original draft Finance Bill proposed to limit the exemption available to capital gains for PEA. This was not adopted as part of the final law.

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Action

- Companies using PEA or intending to do so as part of incentive arrangements should note that its scope is further limited by the new law and should consider adaptation of outstanding co- investment schemes.

Exit tax

For individuals departing from France from 1 January 2014, the scope of the exit tax (at progressive income tax rates) on unrealised capital gains has been extended to include a wider range of investments. Also, the threshold under which the tax does not apply has been reduced to €800,000 (down from €1.3 million).

If the value of the shareholding is lower than this, the tax would now only apply if the individual has a 50% holding in a company (up from 1%). In addition, to be completely exempted from progressive income tax (via a refund of the exit tax), individuals now need to hold their shares for 15 years following departure from France instead of 8 years. Different rules apply depending on whether the transfer of the tax residence is within the EU or outside.

Action

- Exit tax is applicable to share plans once the shares are owned by the beneficiary. The individual is solely responsible for reporting and paying this tax. Employers have no obligation in that respect but may want to flag the changes to their employees leaving France.

Other recent developments

Salary tax – It has been clarified that employee share plans are not included within the scope of the 20% salary tax ("taxe sur les salaires"). As a reminder, this tax is generally due by entities which are exempted from VAT, such as financial institutions or holding companies.

Management Equity Plans – Taj (our Deloitte French Member Firm) has recently won a case at the administration court level in which the social security administration was arguing that a management incentive plan should be treated as employment income. Similar favourable decisions have been rendered for income tax purposes. However, the French administration continues to actively audit such arrangements in an attempt to reclassify as employment income.

Companies should ensure that these arrangements are carefully structured and any audits are properly managed to avoid further litigation (for both social security and income tax purposes).

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Global Rewards Updates:
United Kingdom: Finance Bill 2014 – Draft legislation on employee share plans

Background

On 5 December 2013 the Chancellor of the Exchequer delivered his Autumn Statement announcing a number of changes to the taxation and operation of employee share plans.

The UK Government have now published draft legislation (the Finance Bill 2014) and this GRU summarises the proposed changes, which remain subject to consultation. Many of these measures are broadly based on the Office of Tax Simplification (OTS) recommendations (see GRU).

Share plans for internationally mobile employees

The legislation aims to simplify the UK income tax and National Insurance (NIC) treatment of share based incentives for internationally mobile employees.

Current position

Currently, there is significant complexity in determining the UK income tax and NIC treatment of share based incentives for internationally mobile employees. There can be different outcomes depending on, for example, the type of award granted and residency at that point, whether the employee is inbound to or outbound from the UK, and which country they reside in after the leaving the UK. The income tax analysis will also, in many cases, be different to the NIC analysis.

Proposed position

The draft Finance Bill seeks to simplify the treatment for all options and share awards granted to internationally mobile employees on or after 1 September 2014. The proposal is that income tax will be payable only by reference to UK workdays in the period over which the share award is earned. The existing legislation will apply to all awards granted before 1 September 2014.

There is also specific guidance on the sourcing period to be used in these circumstances. However, in cases where the sourcing period specified in the legislation is not considered to be 'just and reasonable', it should be possible to use a sourcing period that would be considered as such.

The Government have also announced that they will align the NIC position to follow the income tax treatment as far as possible. Further details of the NIC changes will be set out in due course.

These measure will be very welcome to many employers who currently have to spend time grappling with the complex rules. However, there could also be many years of applying two different approaches depending on the date of grant. Therefore there will be some winners and some losers from the proposed changes, for example:

> *An employee was granted a stock option outside of the UK whilst not UK resident, and not in anticipation of UK duties. The employee subsequently moved to the UK where he exercised the option. Under the current rules, no UK income tax would arise at exercise as the employee was not UK resident at grant. However, under the new rules, UK income tax would arise at exercise based on the UK period working time in, ordinarily, the grant to vest period.*

Action

Although this is draft legislation subject to consultation, companies should consider the possible impact on their internationally mobile employees and overall processes for tracking employees and calculating the amount of tax due. It is also important to consider the potential costs to the company, for example, if options are tax equalised.

The government may be open to representations that the new rules should apply to vesting events from 6 April 2014. If this does happen then, employees who hold vested share options may wish to consider if it would be beneficial for the employee (or the company if the employee is tax equalised) to exercise the option before or after the new rules take effect.

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Corporate tax relief for internationally mobile employees

The draft legislation relaxes the rules for obtaining a statutory corporate tax deduction for options and share awards granted to employees who are on assignment or secondment in the UK (i.e. are not contractually employed by the UK company).

Currently, in order to obtain a statutory corporate tax deduction a number of conditions have to be met. One of the key conditions is that the employee must be contractually employed by the company claiming the statutory deduction.

The draft legislation proposes a statutory corporate tax deduction (assuming other conditions are met) even if the employee is not contractually employed by the UK company. Provided that the employee is performing services for the UK company, a deduction should be available for share income up to the amount on which the employee is chargeable to income tax.

This change is set to apply from 1 September 2014.

Action

This is welcome news and potentially allows employers to claim a statutory corporate tax deduction for employees where they previously could not.

Companies should consider how they can track employees into the UK and establish the amount of the relevant deduction.

Corporate tax relief on a company takeover

The rules for obtaining a statutory corporate tax deduction when a private company is taken over by another private company have been relaxed.

Under current rules, in order to obtain a statutory corporate tax deduction, the shares acquired at the exercise of an option must either be listed on a recognised stock exchange, in a company that is not under the control of another company, or in a company that is under the control of a listed company.

It is often the case that, when a company is taken over, all outstanding options will vest and become exercisable as a result of the transaction. However, where a private company is taken over by another private company, if an option is exercised after the transaction, the shares acquired will not qualify for a statutory corporate tax deduction. The Finance Bill proposes to allow a statutory corporate tax deduction to be available where an option is exercised within 90 days of a company being taken over by another private company.

This change is set to apply from 6 April 2014.

Comment

This is another welcome change and will enable companies in similar circumstances to obtain a statutory corporate tax deduction without complex planning.

Changes to tax advantaged share plans

The Government announced an increase to the tax free limits that apply under the share incentive plan (SIP) and the Save as you earn plan (SAYE). In particular:

- The maximum value of partnership shares that can be purchased each year (under the SIP) is increased from £1,500 to £1,800.
- The maximum value of free shares that can be awarded each year (under the SIP) is increased from £3,000 to £3,600.
- The maximum value which an employee can save each month under the SAYE is increased from £250 to £500.

These limits will apply to options granted or SIP shares acquired from 6 April 2014.

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Action

Employers who want to increase their offering should consider if they need to amend their existing rules to allow for the increased limits, and amend their employee communications appropriately.

Employers who don't want to increase their offering should check their rules to ensure they are not bound by these increases.

Self-certification and online filing of share plans

As outlined in the August GRU, the draft Finance Bill introduces legislation covering the self-certification for tax advantaged share schemes, along with the registration and online filing requirements for all employee share plans.
URL: hhttp://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-gru-unitedkingdom-august-2013.pdf

From 6 April 2014:

- Employers will be required to register their employee share plans with HM Revenue & Customs (HMRC) via the PAYE Online service.
- Companies will be obliged to file their annual share plan returns (including Form 42) online (for the 2014/15 tax year onwards). To date HMRC have not provided any further details on the exact nature of these forms, therefore we await further information.
- Companies who wish to implement a tax advantaged plan will no longer need to seek formal approval of the plan from HMRC. Instead they will be asked to self-certify that their plan meets the conditions set down in legislation. This would be done as part of the online registration process mentioned above.

Action

Employers should be prepared to register new and current share plans via the PAYE Online service.

Employers may also want to review the manner in which they compile their share plan annual returns, and consider whether this approach should change as a result of the introduction of online filing. For the year ending 5 April 2014, existing processes will apply.

Any employers considering implementing a new tax advantaged share plan may wish to consider delaying the implementation until after 6 April 2014 in order to benefit from the self-certification regime.

Valuation of shares for tax purposes

For UK listed company shares, the market value of the shares for tax purposes is based on a specific methodology, either the 'quarter up' method or the 'average of marked bargains' method.

Following a recommendation of the OTS, the Government has confirmed that the current valuation methods will be simplified. The valuation of the shares will be taken as the closing price on the day on which the taxable event occurs.

The measure will be relevant to companies whose shares are listed on the Stock Exchange Daily Official List and is expected to be introduced by secondary legislation form 6 April 2014.

Action

In practice, many companies apply this valuation method.

Those who do not and who are on the Stock Exchange Daily Official List should be prepared to revise their methodology of calculating tax due at a taxable event, particularly where they are required to operate PAYE on this value.

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