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Global Employment Solutions

Global InSight

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In this issue:

Belgium:
The 6th State reform: Important implications on individual resident and nonresident income taxation

Overview

Within the 6th State reform framework, the Belgian federal government is currently preparing new draft legislation to be deposited with parliament. This pre-draft legislation modifies the income tax code to take into account the partial regionalization of individual income taxes and also introduces new rules for the taxation of nonresidents. Upcoming legislation changes will affect the current individual income tax legislation when the draft bill is deposited, voted, and entered into force (likely in assessment year 2015 – income from the year 2014):

The regionalization of individual income taxation

In executing the most recent state reform, a significant amount of currently federal individual income tax measures would become regional (e.g., tax deductible expenses such as the 'woonbonus'/'bonus logement', tax reductions such as energy saving expenses, rebates in case advance payments were made, etc.).

The exact impact brought by the above will depend upon the legislative initiatives to be taken by each of the regions concerned.

Limitation of the categories of nonresident individuals that may fully benefit from the personal deductions

In line with ECJ case law, the pre-draft legislation limits the application of full personal deductions, such as the tax-free amount and marital quotient, to one single category of nonresidents: those having earned at least 75% of their taxable income in Belgium. In line with this limitation, the category of "non-residents with an abode" (which is currently fully entitled to personal deductions regardless of their Belgian source income proportion) would be abolished.

In practice, most of the expatriates potentially affected by this proposed measure are those living and working in Belgium while benefitting from the special tax status for foreign executives (travel exclusion equal or greater to 25%). If the so-called 75%-rule is not respected on their (and where applicable their spouse's) account, they will lose their entitlement to personal deductions unless they claim an exception through an EU/nondiscrimination clause in the tax treaty concluded with their home country. In addition, they may lose their entitlement to the tax measures that have been regionalized (see above).

It appears from the above that the actual impact of both elements in the measure will depend on the actual situation of each individual and will need to be determined on a case-by-case basis.

Presently, still with the state council for advice, this legislation would enter into force as of assessment year 2015, i.e., income year 2014.

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Canada:
New procedures regarding identification numbers for waiver applications

Overview

On January 18, 2014, the Canada Revenue Agency (CRA) issued updated administrative procedures regarding the processing of waiver applications in respect of the withholding of income tax from Canadian source compensation paid to nonresidents of Canada. These new requirements are applicable as of January 20, 2014.

Background

Under the Canadian Income Tax Act, employers are required to withhold income tax at source in respect of their nonresident employees' Canadian source compensation related to services rendered in Canada. The amount of withholding is determined in accordance with Section 102 of the Income Tax Regulations (commonly referred to as "Reg 102" withholdings). In many cases, such nonresident employees ultimately are not taxable in Canada due to the provisions of one of Canada's income tax treaties. However, an employer may only be relieved of this withholding obligation when a formal waiver is obtained from the CRA. (This waiver will cover any related Quebec withholdings as well.) Historically, the CRA provided waivers without requiring an employee to obtain a social insurance number (SIN) or an individual tax number (ITN).

New procedural requirements

Individuals are now required to have a SIN or ITN before the CRA will process any of the following forms:

- R102-R, Regulation 102 Waiver Application
- R102-J, Regulation 102 Waiver Application – Joint Employer/Employee
- R106, Regulation 102 Waiver Application – Film Industry
- R105, Regulation 105 Waiver Application
- R107, Regulation 105 Waiver Application – Film Industry

As a reminder, if individuals are unable to obtain a SIN, they must apply for an ITN by using Form T1261, Application for a Canada Revenue Agency Individual Tax Number.

Waiver request forms without a SIN or ITN for an employee will result in processing delays. If individuals are unable to apply for an ITN in advance, the following procedures must be followed:

- A completed Form T1261 must be sent to the International Tax Services Office (ITSO), along with certified copies of the necessary supporting documents and reasons for applying for the ITN. Certified copies of identification documents attached to Form T1261 must have original signatures. The CRA will not accept photocopies or facsimiles of certified copies.

- The waiver application form and all required attachments must be sent to the tax services office (TSO) where services are to be provided or to an appropriate international waivers center of expertise (COE). Copies of completed Form T1261 and supporting identification documents, all clearly marked "copy – originals sent to ITSO" should be included as well. This will allow a waiver officer to identify an individual's ITN easily and copy it onto their waiver form.

The CRA has indicated that Form R102-J, Regulation 102 Waiver Application – Joint Employer/Employee, will be processed without a SIN or ITN, and the individual is required to inform CRA once the tax identification number is assigned.

Issues to consider

Corporations are encouraged to apply for a business number in advance of completing Form R105, Regulation 105 Waiver Application or Form R107, Regulation 105 Waiver Application – Film Industry. If a corporation is under a time constraint, the CRA requires that Form RC1, Request for a Business Number, and any supporting documents, be attached to the back of the waiver form in order to expedite processing of the forms.

In order to ensure that corporations and individuals comply with the Canadian tax withholding and reporting obligations, employers are now expected to have a process in place to track employees' applications for SINs/ITNs or face further delays in an already cumbersome process. Employers should also be aware that they may now be dealing with two different offices, the ITSO and the TSO/COE, which may, on occasion, result in inconsistencies in the application of the new policy.

Deloitte's view

The CRA believes that the use of the COE will address some of the challenges that the business community faces in ensuring consistency with the waiver process. However, these new administrative procedures will likely not be viewed favorably by the business community that has expressed a need for further simplification and administrative relief from the CRA and has recommended that the CRA:

- Simplify the waiver process – Eliminate the requirement that waivers be obtained on an individual-by-individual basis and make the process more employer-focused (as opposed to employee-focused). A system that is self-administered by employers would be preferred.
- Eliminate the requirement for nontaxable employees to obtain SINs or ITNs – The cumbersome process of applying for and obtaining these numbers should not be necessary where an employee is not taxable in Canada.
- Waive the payroll account requirement – Eliminate the obligation for employers from being required to set up payroll accounts in Canada and make related T4 filings for employees that are exempt from Canadian tax and have waivers from withholding tax.

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Korea:
Annual tax law revisions

Summary

Several tax law revisions effective for the 2014 tax year were approved by Korea's National Assembly on January 1, 2014. The following is a summary of major tax law revisions relevant to global employer services.

Restrictions on application of flat tax rate individual income tax incentive for foreigners

Under the Tax Incentives Limitation Law, foreigners are allowed a flat tax rate election as an alternative to the regular progressive tax rates when calculating individual income tax liability on earned income. If elected, a flat rate of tax may be applied to gross earned income, with no deductions, income exclusions, or tax credits allowed, in lieu of the regular progressive individual income tax rates, which range from 6% to 38% (6.6% to 41.8% including local income tax surcharge). Effective January 1, 2014:

Special relationship with employer

1. A foreigner who has a special relationship with the employer shall not qualify for the flat income tax rate election, except where the special relationship is with a foreign-invested company entitled to tax reduction and exemption.
2. "Special relationship" means direct/indirect control over management of the company, family member (second cousin or closer), spouse, etc.

Limited period to application of flat income tax rate election

1. Application of the flat income tax rate election is limited to a maximum of five (5) years from the Korean employment start date.
2. *In the case where a foreign employee began working in Korea prior to 2013, the flat income tax rate election will continue to be allowed until the end of 2014, even if five (5) years have elapsed from the date of their commencement of work in Korea.*

Deloitte's view

Companies should check the length of Korean employment of their foreign employees to determine whether such employees will exceed the five-year limitation for application of the flat tax rate individual income tax incentive for foreigners, and if so, such companies should evaluate the increased Korean income tax liability for such foreign employees.

Earned income deduction reduced

Korean Individual Income Tax Law allows a tiered earned income deduction to reduce taxable earned income. Effective January 1, 2014, the earned income deduction will decrease as follows:

Earned Income Tax Credit		
Annual Wage and Salary Amount	2013 Maximum Tax Credit	2014 Maximum Tax Credit
Up to 55 Million Won	500,000	660,000
55 Million – 70 Million Won	500,000	Max (① , ②) ① 660,000 – [(Annual Wage and Salary – KRW 55 Million) X 1/2] ② KRW 630,000
Over 70 Million Won	500,000	Max (① , ②) ① 630,000 – [(Annual Wage and Salary – KRW 70 Million) X 1/2] ② KRW 500,000

Change in progressive income tax rate top bracket

The tax base threshold for the top tax bracket of the progressive income tax rates is adjusted as follows:

2013 Global Income Tax Table	
Tax base	Rate*
Up to 12 Million Won	6.6%
12 Million – 46 Million Won	16.5%
46 Million – 88 Million Won	26.4%
88 Million – 300 Million Won	38.5%
Over 300 Million Won	41.8%
* Rate includes local income tax surcharge equal to 10% of national tax liability.	

2014 Global Income Tax Table	
Tax base	Rate*
Up to 12 Million Won	6.6%
12 Million – 46 Million Won	16.5%
46 Million – 88 Million Won	26.4%
88 Million – 150 Million Won	38.5%
Over 150 Million Won	41.8%
* Rate includes local income tax surcharge equal to 10% of national tax liability.	

Basic deductions and special itemized deductions converted to tax credits

Korean Individual Income Tax Law allows basic deductions for oneself and certain dependents. Also, certain expenditures may be itemized for a special deduction if the total of such itemized expenditures exceeds the standard deduction of KRW 1 million.

The following basic deductions and special deduction items are converted from tax deductions to tax credits effective January 1, 2014:

- 2013 basic deduction for dependent children:
  - Dependent children ages six (6) or younger: KRW 1 million per child
  - Newborn or newly adopted dependent children: KRW 2 million per child
  - Multiple dependent children:
    - Two (2) dependent children: KRW 1 million
    - More than two (2) dependent children: KRW 1 million, plus KRW 2 million per child over two (2) children
- 2014 conversion to tax credit:
  - Up to two (2) dependent children: KRW 0.15 million per child
  - More than two (2) dependent children: KRW 0.3 million, plus KRW 0.2 million per child over two (2) children
- Special itemized deductions:
  - 2013 itemized deductions:
    - Medical expense deduction for medical expenses in excess of 3% of taxable income (limitation: KRW 7 million, no limit for taxpayer)
    - Education expense deduction (limitation: KRW 9 million for college/university student, KRW 3 million for student in high school and lower, no limit for taxpayer)
    - Charitable donation deduction (limitation: 100% of statutory donation, 30% of designated donation, and 10% of donation for religious group)
    - Insurance premium deduction (limitation: KRW 1 million)
  - 2013 standard deduction: KRW 1 million for employee, KRW 0.6 million for other composite income earner
  - 2013 personal pension savings deduction (limitation: KRW 4 million)
- 2014 conversion to tax credit:
  - Limitation thresholds per expense item to be maintained

- Expense item multiplied by the following percentage rate to be allowed as tax credit:
  - 15% for medical expenses, educational expenses, and charitable donations
  - 12% for personal pension savings and insurance premiums
- Standard tax credit:
  - KRW 0.12 million for employee
  - KRW 0.07 million for other composite income earner

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People's Republic of China (PRC): Individual income tax deferred on enterprise annuity

Summary

China's State Administration of Taxation, the Ministry of Finance, and the Ministry of Human Resources and Social Security (MHRSS) jointly issued guidance on 6 December 2013 (Circular Cai Shui [2013] No. 103), that provides for the deferral of individual income tax (IIT) on an "enterprise annuity." Circular 103 applies from 1 January 2014.

Enterprise annuity is a supplementary pension plan that Chinese companies may establish according to a decree issued in 2004 (Decree No. 20 of the Ministry of Labor and Social Security (the predecessor of MHRSS)). Under a typical enterprise annuity, both the employer and employee make monthly contributions to the annuity fund, although the annual employer contribution may not exceed 1/12 of its total salary expenses of the preceding calendar year. Before Circular 103, both the employer and employee contributions were taxable at the time the contribution was made. Circular 103 shifts the taxation point to the time the funds are withdrawn from the annuity fund.

Key implications

1. An employer's contribution is exempt from IIT in the hands of the employee provided the contribution is made within the limits set by the relevant regulations.
2. An employee's contribution of no more than 4% of his/her salary tax base is deductible from the employee's salary for IIT purposes. The salary tax base is the employee's average monthly salary of the preceding calendar year, but is capped at three times the local average monthly salary of the preceding calendar year.
3. The allocation of the fund earnings to the employee's individual account is exempt from IIT.
4. After an employee reaches the statutory retirement age, the monthly withdrawal of the annuity fund from his/her individual account will be subject to IIT as wages and salary, at tax rates ranging from 3% to 45%. If the withdrawal is made on a quarterly or an annual basis, it will be spread evenly over the relevant period and taxed monthly.
5. A lump-sum withdrawal due to the employee's immigration abroad or death will be spread evenly over 12 months and taxed monthly. However, a lump-sum withdrawal for any other reason will be treated as a separate monthly salary – no spread will be allowed.
6. The employer must register with competent tax authorities within the first 15 days of the month following the month an annuity plan is set up and the following documents must be submitted to the authorities: the annuity plan, the letter of filing, the confirmation letter issued by the MHRSS (or its local branches), and any other documents required by the tax bureau. If a change is made to an annuity plan, the trustee, the custodian, etc., relevant documents must be submitted to the competent tax authorities within the first 15 days of the month following the month in which the change is made.

Deloitte's view

The tax deferral policy on enterprise annuity aims to stimulate the development of the supplementary pension system. The tax exemption at the time of contribution and the earnings allocation provided in Circular 103 have some similarities with the "401k plan" in the United States

The new tax policy on annuity will offer employers scope for compensation structuring that will benefit both employers and employees:

- Enterprises that already have instituted an annuity plan should consider reviewing the plan to provide a more tax-efficient compensation package to employees;
- Enterprises that currently do not have an annuity plan may find that Circular 103 will offer a compensation structuring opportunity for their employees; and
- Multinational corporations that would like to set up enterprise annuity plan to benefit its local and expatriate employees should note that:
    - Only employers that have participated in government statutory pension insurance for their employees are permitted to set up enterprise annuity plans; and
    - For any foreign nationals (foreign assignees or local hires) that would like to participate in an annuity plan, it is essential to confirm that they are able to withdraw the amount on their personal account when they permanently leave China. Since local practices may vary from location to location in China, companies should consult with their advisers.

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United Kingdom:
Short-term business visitors and PAYE reporting

Overview

UK host employers should be aware that Her Majesty's Revenue and Customs (HMRC) is taking a stricter approach to the operation of Pay As You Earn (PAYE) on the remuneration of visitors from abroad who come to the UK to work for them for short periods. Until recently, employers had three choices in applying PAYE to the UK remuneration of nonresident short-term business visitors (STBVs):

- They could enter into a standard written agreement with HMRC (a so-called EP Appendix 4 agreement featured at PAYE82000 in the HMRC PAYE manual) and benefit from PAYE relaxations in return; or
- They could establish themselves when the employee's remuneration is relieved from UK tax because of the operation of a double tax treaty and apply PAYE only when it wasn't; or
- They could apply PAYE to all earnings attributable to duties undertaken in the UK, whether or not treaty relief is available.

Recent discussions with HMRC have established that the second option no longer exists. HMRC has indicated that from 2013-14 onwards, where they discover that UK employers have adopted a unilateral approach, they will seek to recover PAYE deductions unless they are provided with signed self-assessment (SA) returns containing valid claims for each of the STBVs.

Prior to 2013-14, HMRC was prepared to allow employers to assess if there was treaty relief from PAYE liability on a unilateral basis, provided that they accepted that in the event of any intervention from HMRC, they would need to share this evidence. If and to the extent that HMRC was not convinced that treaty relief was due, they would seek recovery of PAYE on a retrospective basis. These arrangements were announced via the Joint Forum on Expatriate Tax and NICs on 30 November 2006. HMRC have confirmed that these may apply up to and including 5 April 2013.

Different rules apply in considering whether the remuneration of STBVs is exempt from Class 1 national insurance contributions, and this matter should always be given separate consideration from the tax treatment.

PAYE reporting

UK host employers are only required to track and report STBVs for whom they have a PAYE reporting obligation. This will be where the visitor is either employed by, paid by, or working for the UK entity. Some visitors who come to the UK do not trigger a PAYE reporting obligation. As long as the foreign employer does not have a UK tax presence, resolving the UK tax treatment of, and the treaty position for, such individuals is a personal tax matter. The first step, therefore, is for employers to consider whether or not PAYE should apply where STBVs are known to work in the UK.

Where employers make use of STBVs, but have historically relaxed their PAYE reporting obligations on a unilateral basis, HMRC now says that if companies want any sort of PAYE relaxation, they must enter into an EP Appendix 4 agreement. Where they discover that UK employers have adopted a unilateral approach, they will seek to recover PAYE deductions unless they are provided with signed SA returns containing valid claims for each of the STBVs affected.

Requests for retrospective agreement

We have discussed with HMRC the possibility of them agreeing to EP Appendix 4 arrangements operating on a retrospective basis from 6 April 2013, provided that signed agreements are in place in advance of 5 April 2014.

HMRC has confirmed that they will be prepared to countersign EP Appendix 4 agreements, which may operate on this retrospective basis provided that submission of the individual requests is not left until the last minute. In most cases, it will be in the employer's interest to apply for an agreement if one does not exist already. Where an agreement is in place, the employer is not required to report very short-term visits of less than 30 days in the year. Without an agreement, HMRC's new position means that PAYE must be operated even for this population from Day 1.

Therefore, there is a limited opportunity to regularize the position from 6 April 2013, by obtaining a retrospective agreement. Employers who do so will be required to submit a return by 31 May 2014, indicating the relevant details for visitors falling within the various categories based on days spent in the UK throughout 2013-14.

Recommended actions for employers using STBVs from abroad

- Check to see if you need and have a currently valid EP Appendix 4 agreement
- Check how you have resolved STBV reporting issues for years to 2012-13
- Ensure that you understand the treaty requirements for exemption (particularly "economic employer" issues)
- Ensure that your processes and governance support the adequate identification and tracking of STBVs necessary to comply with the requirements of an EP Appendix 4 agreement
- Consider taking advantage of the opportunity to apply for an agreement for 2013-14 onwards

Deloitte's view

This is a surprising but important development, the significance of which has not been widely understood to date. We intend to seek further clarification from HMRC at the next meeting of the Joint Forum on Expatriate Tax & NICs on 29 January 2014, but in the meantime, we would recommend that employers take advantage of the opportunity to obtain a retrospective agreement where this is feasible and so manage the risk associated with any PAYE relaxation applied to date.

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United States:
Treasury releases temporary regulations on PFIC reporting

Overview

On December 31, the Department of the Treasury published Temporary Regulations in the Federal Register providing guidance on the annual PFIC information reporting requirement imposed by IRC §1298(f). These rules take effect for tax years ending on or after December 31, 2013 and are set to expire on December 31, 2016.

Background

Section 521 of the Hiring Incentives to Restore Employment Act of 2010 ("HIRE Act") added Section 1298(f) to the Internal Revenue Code which instituted an annual Form 8621 reporting requirement for shareholders of PFIC stock that previously had no filing requirement. This requirement was originally effective as of March 18, 2010. The IRS issued Notice 2010-34 (2010-1 CB 612 (April 26, 2010)) clarifying that this requirement would not be effective for any tax year beginning before March 18, 2010. Subsequently, the IRS issued Notice 2011-55 (2011-29 CB 663 (July 18, 2011)) suspending the reporting requirement until the IRS issued a revised Form 8621.

Separate Form 8621 required for each PFIC

The main impact of the temporary regulations is that taxpayers will now be required to file an annual report to disclose their ownership of a PFIC investment. The temporary regulations provide that a taxpayer subject to §1298(f) must file a separate Form 8621 for each PFIC owned. Married taxpayers filing a joint return may file a single Form 8621 for each PFIC in which they own a joint or individual interest. As stated in the overview, this rule applies for tax years ending on or after December 31, 2013, which for individual taxpayers means for 2013 income tax returns.

Based on initial drafts of Form 8621 published in 2013, information that will be disclosed with this filing obligation includes:

- A description of the shares owned by the shareholder,
- The date the shares were purchased if in the current year,
- The number of shares held at the end of the year,
- The value of the shares held at the end of the year, and
- The type of PFIC being reported.

Retroactive filings not required

Notice 2011-55 indicated that once the revised Form 8621 was released, any required Forms 8621 for suspended tax years would need to be attached to the next income tax return filed. Assuming the revised Form 8621 was issued in time for the filing of 2013 tax returns, this presented the possibility that taxpayers could have to file Forms 8621 for 2011, 2012 and 2013 with their 2013 tax returns. The temporary regulations eliminate this possibility by eliminating the Form 8621 under §1298(f) requirement for any tax years ending before December 31, 2013.

Application to indirect shareholders

The temporary regulations supply guidance as to exactly what taxpayers are affected by the §1298(f) reporting requirement. In addition to those taxpayers that directly own PFIC stock, certain indirect owners will also be required to file Form 8621. Generally, this requirement applies if the taxpayer owns PFIC stock indirectly by holding an interest in one or more foreign entities that own PFIC stock. Exceptions from filing apply for taxpayers owning an indirect interest in PFIC stock through domestic liquidating trusts, foreign pension funds, and as beneficiaries of foreign estates and trusts.

Exceptions to filing

In addition to eliminating the filing requirement for tax years ending before December 31, 2013, the temporary regulations also provide some additional exceptions to the §1298(f) reporting requirement. An exception from filing is established for tax exempt entities that own PFIC stock, unless the entities would otherwise be taxable on income derived from the PFIC investment. Additionally, the regulations establish a de minimis exception from filing for PFIC holdings below certain threshold amounts. The threshold amount depends on the taxpayer's filing status and whether the stock is owned directly or indirectly. A taxpayer is not required to file Form 8621 for a PFIC under the §1298(f) requirement if either the total value of all PFIC stock owned directly or indirectly by the taxpayer is less than $25,000 or if the PFIC is owned indirectly its value is less than $5,000. For joint filers the $25,000 amount rises to $50,000.

Deloitte's view

The long-awaited regulations continue the IRS' focus on reporting of international assets and the disclosure of potentially taxable investments that previously may not have been reported. Still, these regulations provide clarity regarding the filing obligations for taxpayers who are owners of PFIC investments, particularly the relief provided for prior year reporting. US taxpayers should continue to appreciate the requirement to report and disclose all global assets that create income tax reporting obligations under US tax law.

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Global Rewards Updates:
Japan: Foreign asset reporting for incentive plans

Background

Currently, all resident taxpayers in Japan, both permanent and non-permanent, in receipt of earned income over JPY20 million are required to file a Statement of Assets and Liabilities, reporting on a worldwide basis.

From 1 January 2013, Japan introduced an additional foreign asset reporting requirement, the Foreign Asset Report. The first report under the new regime will need to be filed by 17 March 2014 and it will cover assets held at 31 December 2013 (see further details below).

The scope of this report includes all permanent residents of Japan (whether they are taxpayers or not). Permanent residents of Japan will therefore need to determine whether they may be required to file this report for any foreign assets held (including foreign shares acquired under incentive plans). The reporting requirement covers all share options that have vested, even if they have not yet been exercised. Unvested share awards and share options should not however be included.

This new foreign asset reporting requirement is in addition to, and not a replacement for the Statement of Assets and Liabilities; however, if the asset has been reported on the Foreign Asset Report, it is not necessary to duplicate the reporting on the Statement of Assets and Liabilities.

Foreign Asset Report

Individuals who are required to file the Foreign Asset Report are permanent residents for tax purposes in Japan. This includes foreign nationals who are residents in, and have had a domicile in, Japan for more than five years in the preceding ten years or those who are currently Japanese tax residents. These individuals are required to file the report for the year when the total value of their foreign assets exceeds JPY50 million as at 31 December of that year.

The form is a separate requirement to the income tax return and individuals are required to submit this form even if they do not have any taxable income in Japan.

Generally, the due date for the Foreign Asset Report is 15 March following the end of the year. The first reports are due by 17 March 2014 (as 15 March 2014 falls on a Saturday) for assets held at 31 December 2013.

Scope of reporting

The Foreign Asset Report is a two-page form consisting of a report and summary table. The Japanese authorities have taken the view that foreign assets include any assets located outside of Japan that have an "economic value".

Details requested include the type of asset, purpose of use, quantity, value and location of the asset. All assets held overseas must be disclosed and the value of all assets should be aggregated. The value should be reported as the fair market value as at 31 December of that year.

In addition to shares held by the individual, vested but unexercised stock options count towards the JPY50million threshold for the purposes of this Foreign Asset Report.

Penalties for non-compliance

In cases of fraudulent reporting or non-filing, an individual may face a prison sentence of not more than one year and a fine of not more than JPY500,000. However, these are applicable from the second reporting year onwards (i.e. for reports filed for the 2014 year). Any reports that are voluntarily submitted after the due date will be deemed to have been filed before the due date.

Japanese authorities have amended their calculation of any penalty taxes due for any under-reported income associated with the Foreign Asset Report. If underreported income is declared on the Foreign Asset Report, penalty taxes are reduced by 5%. However, if underreported income is not declared on the Foreign Asset Report, penalty taxes are increased by 5%. These measures will be implemented for reports submitted on or after 1 January 2014.

Action

There may be many individuals who do not realise this reporting requirement applies to them. Although this is an employee reporting requirement, companies should consider giving their employees guidance on the new Foreign Asset Report. This may include specific guidance (for example to state the vested but unexercised stock options need to be included) or an update of the current employee communications to make employees aware of their compliance responsibilities.

It is worth noting that the Japanese authorities are starting to undertake significant increased audit activity in the area of equity compliance. Companies should therefore consider whether they are giving sufficient guidance to employees participating in incentive plans which allow employees to ensure they are compliant.

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Have a question?
If you have needs specifically related to this newsletter's content, send us an email at **clientsandmarketsdeloittetax@deloitte.com** to have a Deloitte Tax professional contact you.