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Global Employment Solutions

# Global InSight

13 February 2015

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## Hong Kong:
## Immigration Update: Changes in Hong Kong immigration policies to attract talent and professionals from outside Hong Kong

### Overview

One of the key points that emerged in the Chief Executive of Hong Kong's 2015 policy address on 14 January 2015 is that the government intends to tackle the issue of possible future talent shortages in the territory. The government is keen to maintain adequate and quality manpower resources to sustain socioeconomic development. Several immigration measures were announced, as a proactive approach, to attract, recruit, and retain talent from outside Hong Kong.

### Key implications

1. **Attract the second generation of emigrated Chinese Hong Kong permanent residents to return to Hong Kong:** The Immigration Department will implement a pilot scheme to attract overseas-born second generation individuals of emigrated Chinese Hong Kong permanent residents to return to Hong Kong by granting them a one-year



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residence visa provided certain criteria are fulfilled. The residence visa will be renewable if the applicant secures local employment. Once the individual is ordinarily resident in Hong Kong for seven years, he/she will be eligible to apply to become a Hong Kong permanent resident.

2. **Relax the stay arrangements for Hong Kong residents:** Professionals and entrepreneurs admitted to Hong Kong under the General Employment Policy, the Admission Scheme for Mainland Talents and Professionals, and the Quality Migrant Admission Scheme will enjoy more flexible stay arrangements. The flexibilities may include the ability to change jobs and longer extensions for the stay provided certain requirements are met. Full details have not yet been announced.
3. **Adjustment to Quality Migrant Admission Scheme:** The Immigration Department will adjust the "General Points Test" under the Quality Migrant Admission Scheme to attract a larger pool of young talent with excellent education background or international work experience to come to Hong Kong.
4. **Suspend Capital Investment Entrant Scheme and attract more entrepreneurs from overseas to develop their business in Hong Kong:** To adhere to the theme of attracting talent to Hong Kong, the government has decided to suspend the Capital Investment Entrant Scheme, with effect from 15 January 2015. To supplement the suspension, clearer guidance will be provided on the factors to be considered for entrepreneurs to apply for an investment visa under the General Employment Policy to encourage more entrepreneurs from overseas to develop their business in Hong Kong.
5. **Attract diversified talent:** The Immigration Department has made reference to overseas experience, and is studying the feasibility of drawing up a talent list to attract high quality talent to support Hong Kong's development as a diversified and high-value-added economy.

**Deloitte's view**

The focus of the policy addresses on encouraging talent to come to Hong Kong is good news for employers. With the full details yet to be announced, employers should monitor developments closely to be ready to make any necessary changes in their recruitment and hiring process strategies.

With a larger and more diverse pool of talent in the future, employers also should take this opportunity to revisit talent management, relocation, and business strategies.

Deloitte Hong Kong has experienced Global Mobility and Business Advisory professionals who can provide tax, immigration, and business advisory services.


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## Malaysia:
## Budget Proposals Gazetted

### Overview

The Malaysia's National Budget 2015 proposals announced on 10 October 2014 were gazetted on 30 December 2014. The gazette formalized the following proposed measures:

- Review of resident and nonresident individual income tax bands and rates
- Review of tax reliefs
- Monthly tax deduction as final tax for employees
- Increase in maximum penalty fine

### Reduction of individual income tax rate

With effect from Year of Assessment (YA) 2015, individual income tax rates will be reduced by 1% to 3 % and the chargeable income subject to the maximum rate will be increased from exceeding RM100,000 to exceeding RM400,000 as per the table appended below:

| Chargeable Income | Calculations (RM) | 2014 Rate % | Proposed Rate % 2015 |
|---|---|---|---|
| **0-2500** | On the First 2,500 | 0 | 0 |
| **2,501-5,000** | Next 2,500 | 0 | 0 |
| **5,001-10,000** | On the First 5,000 | | |
| | Next 5,000 | 2 | 1 |
| **10,001-20,000** | On the First 10,000 | | |
| | Next 10,000 | 2 | 1 |
| **20,001-35,000** | On the First 20,000 | | |
| | Next 15,000 | 6 | 5 |
| **35,001-50,000** | On the First 35,000 | | |
| | Next 15,000 | 11 | 10 |
| **50,001-70,000** | On the First 50,000 | | |
| | Next 20,000 | 19 | 16 |
| **70,001-100,000** | On the First 70,000 | | |
| | Next 30,000 | 24 | 21 |
| **100,001-250,000** | On the First 100,000 | | |
| | Next 150,000 | 26 | 24 |
| **250,001-400,000** | On the First 250,000 | | |
| | Next 150,000 | 26 | 24.5 |


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| Chargeable Income | Calculations (RM) | 2014 Rate % | Proposed Rate % 2015 |
|---|---|---|---|
| **Exceeding 400,000** | On the First 400,000 | | |
| | Next RM | 26 | 25 |

Nonresident income tax rate will be reduced from 26% to 25%.

**Increase in income tax reliefs**

With effect from YA 2015, the following reliefs will be increased from maximum of RM5,000 to RM6,000:

1. Relief on medical expenses expended or deemed to be expended by the taxpayer on himself, spouse, or his child who is suffering for serious diseases, such as cancer, kidney failure, heart disease, acquired immune deficiency syndrome (AIDS), Parkinson's disease, and leukaemia;
2. Relief given to taxpayer for the maintenance of each of his unmarried children who is disabled; and
3. Relief for purchase of basic supporting equipment for the disabled taxpayer, spouse, child, and parents.

**Monthly Tax Deduction (MTD) as final tax for employees**

With effect from YA 2015, an individual may elect not to furnish a tax return for a YA if the individual has only employment income and is employed by the same employer in that YA irrespective of the period of employment.

**Increase in maximum penalty fine**

To increase the maximum fine of RM2,000 to RM20,000 for the following offences:

1. Failing to furnish a return or to give notice of chargeability;
2. Voluntarily leaving or attempting to leave Malaysia without paying the tax, sums, and debts; and
3. Noncompliance with employer tax obligations.

**Deloitte's view**

The reduction of income tax rate and increase of tax reliefs aim to reduce the financial burden of taxpayer and to help taxpayer with disabilities or with disabled spouse, child, and/ or parents bearing with the rising medical expenses.

Moving toward an enhanced compliance in the tax system, the maximum penalty rate is now increased by ten-folds. We caution all employers to be mindful of their tax obligations to avoid the hefty penalties.

In the change of legislation for the MTD to be final tax, it has now put more onus on the employer for a more accurate calculation of the MTD. Employer needs to include all employment income (including benefits in-kind, accommodation provided by employer etc.)


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and also allow adjustments of the MTD by accepting submission by their employees for their claims of tax reliefs.

We see this as a measure to pass the responsibilities to the employer to be updated with tax legislation. It is therefore important for the employer to ensure the payroll disbursement process is reviewed so that the MTD is accounted for accurately. It also calls for a review of the payroll system on its readiness to support the change and ensuring timely updates for an accurate calculation of the MTD.

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## Norway:
## New Social Security Totalization Agreement with India

### Overview

Norway and India have signed a new Social Security Totalalization Agreement (the "Agreement"), which entered into effect from 1st of January 2015. The Agreement is highly appreciated as seconded workers between India and Norway will be subject to social security coverage and contribution liability in only one of the said countries.

### Key elements

- The Agreement mainly focuses on pension rights, hereunder the right to export pension benefits and the right to take into account insurance periods completed under both contracting states` laws, to determine entitlements to disability and old-age pension. Thus insofar, they do not coincide with periods of coverage already credited for by one of the states.
- The Agreement includes provisions concerning the applicable legislation for employees that work in one of the contracting states. In general, an employee shall be subject to the social security legislation of the contracting state in which he works. An employee who works on board a ship that flies the flag of a contracting state and who is residing in one of these states, shall be subject to the social security legislation of the state in which he has his residence.
- The Agreement includes a special provision regarding seconded employees. An employee who is seconded from one contracting state by his current employer, and on that employer`s account, to work in the other contracting state, shall continue to be subject to the social security legislation of the first mentioned state. This, however, is on the condition that the foreseeable duration of his work does not exceed five years.


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Family members who accompany the seconded employee will be subject to the legislation of the same contracting state as the seconded employee, unless they exercise professional activities.

- The special provision regarding seconded employees also applies to employees already sent to work from one contracting state to the other. The periods of employment referred to in the said provision shall be considered to begin on the date of entry into force of this agreement.
- Employees seconded to work from one contracting state to another must normally obtain a Certificate of Coverage to document the coverage in the contracting state he is seconded from and the exemption from coverage and contribution liability in the contracting state in which he performs work. It is our understanding that the formalities and the practicalities concerning the format of the Certificate of Coverage is still in progress by the social security administrations in both countries.

**Deloitte's view**

The Social Security Totalization Agreement is important to employers with employees sent between India and Norway, because the Agreement secures the employees` need for social security coverage and avoidance of double contribution liabilities.

An employer who has seconded employees to work in the other contracting state, should evaluate the effect the Agreement has for its employees and take actions accordingly.

It may be advisable to review the employer`s international policy in order to adapt to the provisions of the Agreement.

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## Singapore: Employment Pass Applicants Will Need a Notification Letter Before They Can Commence Work

Effective 16 March 2015, employers will need to arrange for the issuance of the employment pass (EP) and notification letter (NL) of their foreign employee before such foreign employee may commence work in Singapore.

Currently the EP In-Principle Approval (IPA) letter is sufficient for the foreign employee to commence work immediately when he arrives in Singapore notwithstanding that the EP or NL have not been issued. In practice, the employer will arrange for the issuance of the EP and NL


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through the EP online system after the employee has commenced work before completing the formalities and/or the registration of the relevant work pass.

With the announcement, the Ministry of Manpower (MOM) will now require the employment pass applicant to be issued with a NL before he can commence work. Accordingly, the employer will have to arrange for the issuance of the EP and NL on or before the commencement date. In addition, as the NL will only be valid for one month, the EP applicant should proceed to complete the registration process as soon as possible.

**Deloitte's view**

The current practice of foreign employees commencing employment with the IPA will no longer be allowed. Accordingly, we would advise the EP applicant/employer to inform us if there is any change in commencement date of employment for the purpose of issuance of the EP and NL. There may be exceptional cases where MOM may request in the IPA letter for the individual to undergo medical examination. In this regard, the issuance of the EP and NL may only take place upon receiving the medical examination results, which usually takes one to two weeks. It is therefore important that the EP applicant should not work until the NL is issued and should plan his travel/work arrangements accordingly.

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## Switzerland:
## Higher Taxes on Expatriate Benefits

The Swiss government has recently announced changes to the federal ordinance that provides the legal basis for deducting moving, housing, and schooling expenses for expatriate employees. These changes will enter into force as of 1 January 2016. Below is a summary of the current rules, as well as the new rules that will take effect in 2016.

**Definition of "Expatriate employee"**

**Current rule:** Many cantons accept that executive employees and specialists transferred to Switzerland on a Swiss local contract can be expatriates and benefit from the expatriate deduction for a period of five years.

**New rule:** Only executive employees and specialists who are sent temporarily with a letter of assignment by their foreign employer will qualify for these deductions. A local contract should


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still be accepted assuming it is limited to five years and includes a contractual clause guarantying re-employment with the home country company.

### Lump-sum deduction

**Current rule:** Expatriates can choose to deduct either the actual expatriate expenses or a lump-sum amount of CHF 1,500 per month. There are no additional conditions for taking the lump-sum deduction.

**New rule:** In order to benefit from the lump-sum deduction, it is now required that permanent home country lodging must be kept for the expatriate's own use for the duration of the assignment. In circumstances where the home country lodging has been rented out or is otherwise unavailable, the lump-sum deduction will not be accepted and only the actual expatriate expenses will be deductible.

### Double housing cost deduction

**Current rule:** The cost of rent in Switzerland is deductible if the expatriate maintains lodging in their home country. Many cantons consider that it is enough that the expatriate owns real estate in their home country.

**New rule:** The deduction will only be possible if it can be proven that home country lodging is permanently and readily available. The maximum allowable amount will still be determined by the local tax authorities.

### Travel costs from home to host country and moving costs

**Current rule:** Many cantons accept that house-hunting visits and other less direct costs related to the preparation of the move are deductible (in addition to typical moving expenses, such as flights and removal costs).

**New rule:** According to the commentary, only those costs deemed as indispensable for moving to the assignment country will be deductible. In other words, only costs that are in direct relation to the move, such as flights and removal costs will be deductible.

### Schooling costs

**Current rule:** Many cantons accept that the payment of private schooling costs for children of expatriate employees is not a taxable benefit for the employee if the costs are paid in the form of a subsidy to the school (subsidy/cooperation agreement system). The current rules do not indicate a limit in time to this benefit.

**New rule:** The number of years that schooling costs can be deducted is now aligned to the other expatriate deductions (for a period of five years). The system of subsidy/cooperation agreements with international private schools won't be abolished; however, the effective costs will have to be reported on employees' annual salary certificates if they exceed five years and consequently will generate additional tax liabilities.


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### Deloitte's view

These changes limit certain tax benefits previously available to multinational companies and their employees. Multinationals need to assess the additional tax costs that these changes will bring and take the appropriate measures to plan for future transfers.

Deloitte can support with a detailed analysis of the impact of these changes as well as assist in restructuring current arrangements with the tax authorities and/or mobility policies.

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## Ukraine:
## Changes in the Ukrainian Personal Income Taxation and Compulsory State Social Insurance System

### Overview

Recently the Ukrainian Parliament has adopted changes to personal income taxation and compulsory state social insurance system in Ukraine. Below you may find a brief summary of the key provisions of the adopted laws that became effective on 1 January 2015.

### Major changes to Personal Income Tax (PIT)

- The top PIT rate increased from 17% to 20%.
- Passive income (interest, income from investments, etc.) of an individual is subject to a 20% rate.
- Dividends are subject to 20% and 5% rates, whereas the 5% rate applies to dividend income paid by resident companies that are corporate income tax payers in Ukraine.

### Military contribution

First introduced in August 2014 until 31 December 2014, the military contribution has been extended indefinitely, until abolishment by the respective legislative regulations.

The rate of the military contribution remains 1.5% of individuals' taxable income.

The tax base of the military contribution has been set equal to the PIT base.


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Tax agents are responsible for withdrawal and payment of the military contribution on individuals' taxable income. In a no-tax-agent case, the obligation to report and pay the military contribution lies with a taxpayer.

**Unified Social Insurance Contribution (USIC)**

The most significant change introduces a possible reduction of the employer's part of the USIC in order to encourage employers to report real salaries and prevent black cash payments. A degression factor (0.4 from 1 January 2015 and 0.6 from 1 January 2016) is to be applied to employer's USIC rates for calculating payroll (income) of individuals and remuneration under civil contracts, provided that certain conditions are met.

**Deloitte's view**

The above-mentioned changes increased PIT rates that affect resident employees and nonresidents assigned to work in Ukraine, as well as expatriates. Please consider changes when calculating hypothetical tax on Ukrainian source income and worldwide income for tax residents.

A degression factor applicable to employers' USIC rates is introduced within the tax reform in Ukraine and meant to unshadow the economy. Unfortunately, the employers that pay official salaries will be unable to meet the proposed conditions and apply the degression factor.

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## Global Rewards Updates:
## Australia: New employee share scheme draft tax rules released

### Background

The Australian government has released drafts of the amendments to the employee share scheme (ESS) tax rules. The changes are proposed to take effect for ESS interests, such as shares (i.e. restricted shares) and rights to shares (i.e. share options), acquired (i.e. granted) on or after 1 July 2015.

The draft amendments propose to:

- Reverse some of the changes made in 2009 to the income tax point for ESS rights for employees of all corporate tax entities;
- Introduce a tax concession for employees of certain small start-up companies; and
- Authorise the Australian Taxation Office to work with industry to develop safe harbour valuation methods, supported by standardised documents. The aim of this is to streamline the establishment and maintenance of ESS to improve the tax treatment of ESS and stimulate the growth of innovative start-ups in Australia.


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**Reversing and improving certain parts of the 2009 reforms**

**Relaxing the significant ownership and voting rights limitations:** Under existing rules, in order for rights to be taxed at the deferred taxing point rather than at acquisition, certain conditions need to be met.

One of these conditions under existing rules requires that immediately after the acquisition of the rights, the participant does not have ownership or voting rights of more than 5% in the company. Under the drafts of the amendments, the limitation will increase from 5% to 10%.

However in determining this percentage, the employee will need to take into account the shares that they could obtain by exercising their rights.

**Employee share scheme deferred taxing points for rights:** Under existing rules, awards that qualify to be taxed at the ESS deferred taxing point are generally taxed at the earliest of:

1. Cessation of employment;
2. If the shares have a real risk of forfeiture and genuine disposal restrictions, the time when these forfeiture/disposal provisions expire;
3. If the rights have a real risk of forfeiture and genuine disposal restrictions, and there are forfeiture or disposal restrictions on the underlying shares, the time that the forfeiture/disposal restrictions expire on the shares;
4. If the rights have a real risk of forfeiture and genuine disposal restrictions, and there are no forfeiture or disposal restrictions on the underlying shares, the time of vesting of the rights; and
5. Seven years from the date of acquisition.

The amendments propose the following changes to (4) and (5) above:

1. Exercise.
2. Fifteen years from the date of acquisition.

**Changes to the refund of income tax for forfeited shares and rights:** While termination of group employment remains a potential taxing point, the refund provisions will be extended. They will now allow for a refund of income tax paid in certain circumstances where an employee chooses not to exercise a right, including, relevantly, where the employee does not exercise an underwater option after termination of employment.

No refund of income tax, however, will be permitted where the ESS was structured to directly protect the employee from downside market risk.

**Updated market value valuation table:** The existing ESS tax valuation tables for unlisted rights in the regulations will be updated to reflect current market conditions. Generally, the updated market value valuation table will produce a lower taxable market value per right than the existing tables.


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## Concessions for interests in small start-up companies

A start-up company broadly means an Australian tax resident employer that offers for acquisition ESS interests in an unlisted company with an aggregated turnover not exceeding A$50 million, with all companies in the corporate group having been incorporated for less than 10 years.

To be eligible for the start-up concession, certain conditions must be met, including:

- ESS shares must have a discount of less than 15% of the share market value at time of acquisition;
- ESS rights must have an exercise price that is greater than or equal to the ordinary share market value at time the right is acquired (i.e. market value or premium options);
- The rights or shares must be held for a period of 3 years or until termination of employment with the employer or group company, if earlier.

Where a start-up company's ESS and the employer meet the start-up concession conditions, the employee will not be subject to income tax on the ESS interest discount. Rather, the employee will be subject to capital gains tax rules on any gain above:

- The market value of the share at acquisition (i.e. the 'discount' becomes effectively tax-free as the capital gains tax cost base includes the full market value of the shares); or
- The cost of acquisition of the right (i.e. there would be no taxation at exercise).

Note that as a consequence of the start-up concession, capital gains tax exemptions for temporary residents have been modified so that such exemptions do not apply to start-up ESS.

## Deloitte view

In our submission to the government in February 2014, we called for a broader change to the tax on employee options as well specific equity tax incentives for start-ups. We are pleased to see that the vast majority of our suggested changes have been included in the draft, or called for in the further consultation.

There are, however, still unanswered questions and important areas to consider. For example:

- What is the broad interpretation of "exercise" for rights other than share options (i.e. are restricted share units that automatically 'exercise' taxed when real risk of forfeiture ceases or are they taxable when shares are received)?
- Under the new '10%' ownership rule, are rights included only if they have vested and can be exercised or are all rights included in the 10% calculation?
- How should market value of unlisted rights be determined beyond 10 years (as the proposed new valuation table is limited to 10 years)?
- If there is an aggregate turnover threshold and an incorporate maximum period of 10 years to access the start-up concession, is it relevant if a company is listed or not?
- Aggregated turnover includes affiliates and connected organisation, so special care need to be taken when assessing the A$50 million threshold.


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- The drafting of the rules affecting ESS rights for start-ups appears to rule out providing a full value share in the future (i.e. an RSU type award) and is limited to share options. As rights to full value shares are a more common type of equity plan globally, this should be reconsidered.
- The amendments suggest that the governing rules of the scheme must expressly state the relevant provisions to apply for the deferred taxing point. Does this mean that when an individual comes to Australia holding an overseas 'right', they may not qualify for some of the broader changes unless the plan or the offer document of the award specifically states the provisions?
- Currently there are boxes on the ESS reporting document for pre and post 1 July 2009 income. Confirmation is required on whether a third box to report post 1 July 2015 income will be available. In addition, what reporting will employers need to comply with for the ESS start- up plans?

### Action

Deloitte will continue to work with the government on these proposed changes. If your company would like to be part of the Deloitte representations to government, then please join the debate on our website before the submission closing date of 6 February 2015.
**URL:** http://www.retainingtalent.com.au/


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## Global Rewards Updates:
## Spain: Availability of the EUR 12,000 exemption

### Background

In our Global Rewards Update of September 2014, we discussed the changes affecting share plan awards that were proposed by the Spanish government in its draft tax reform package.
**URL:** http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-gru-spain-september-2014.pdf?id=us:em:na:gis:eng:tax:150213

Following the approval of the tax reform package, the proposed changes to the "reduction of taxable income" preferential tax treatment remain as detailed in our September Global Rewards Update. The 40% reduction to taxable income previously available to irregular income generated over a period of more than two years was replaced by a 30% reduction, available if income is received in the same tax year and the individual has not applied the reduction within the preceding five years.



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However, the final tax reform package amended the conditions to be met for the EUR 12,000 to apply rather than removing the availability of the exemption altogether.

**EUR 12,000 exemption – new applicability**

The draft tax reform package by the Spanish government proposed to remove the exemption available for the first EUR 12,000 of income realised from share settled compensation. However, in the final version of the reform package, the government did not remove the exemption for income tax purposes.

Although the exemption remains available, the tax reform introduced changes to the relevant eligibility requirements. Previously the tax exemption was available if the following conditions were met:

1. The offer is made as part of the general remuneration policy of the company, or of the group;
2. Each employee, together with his/her spouse or relations (up to the second degree), does not hold a direct or indirect stake in the company or in any other of the group of companies, which exceed 5% of the capital stock of the company; and
3. The employee holds the shares for at least three years following the acquisition date.

The reform amended the first of the conditions so that now the general remuneration policy must include *all employees of the company*, with no exception (i.e. all employees must be offered participation in the plan). Previously, it was not necessary for the plan to be available to all employees in the company but rather to all individuals within the same category/grade of the company.

However, it is not currently clear whether the new condition will be met if the plan rules do not specify that all employees are eligible to participate in the plan but in practice the plan is offered to all employees of the company or group.

Further regulations are expected from the Spanish authorities on this point. Deloitte will be monitoring the developments as they emerge.

The exemption was previously removed for social security purposes and there is no change to this position.

**Deloitte view**

*For awards exercised/delivered on or after 1 January 2015*, employers that have historically applied the EUR 12,000 exemption to share settled compensation received by their employees should review their plans to assess whether the exemption is still available for income tax purposes:

- If previously the exemption was applied to awards received under a plan which was made available to all employees within a certain company category or grade (but not to all company employees), the exemption will no longer be applicable.


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- If previously the exemption was applied to awards received under a plan which was made available to all company employees and this is stated in the plan rules, the exemption will continue to be available.
- If previously the exemption was applied to awards received under a plan which was in practice made available to all company employees but the plan rules do not specify that all company employees are eligible to participate in the plan, the exemption may no longer be available. Further guidance is expected from the Spanish Tax Authorities on this. In the meantime, as long as in practice the plan is offered to all company employees, the risk of the decision to apply the exemption being challenged by the authorities is relatively small.

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