Global Employer Services | 31 October 2016

Global Reward Update

Japan – Expanded employer reporting obligations on share incentives and potential changes to Capital Gains Tax Regime

Expansion of reporting requirements

The Japanese tax authorities announced in their 2016 Tax Reform Proposal that employer reporting obligations on share incentives would be extended to incorporate a larger amount of categories of employees. It was recently confirmed that these obligations would be effective for share incentives received from 1 January 2016.

Changes to the 2012 Tax Reform on Reporting

Under the old rules established by the 2012 tax reform, the scope of employer reporting requirements with respect to share awards applied to employees/directors who were Japanese resident and actively employed by the Japanese subsidiary/branch at the time of receiving their awards in the foreign parent company.

The expansion of the 2012 reform will now require employers to include non-residents and former employees/directors. Therefore, the following categories of employees will now be impacted by the reporting requirements:

1. Residents who were employees or directors of a Japanese subsidiary/branch but have been terminated.

2. Non-residents who are employees or directors of a Japanese subsidiary/branch and receive Japanese sourced income.

3. Non-residents who were employees or directors of a Japanese subsidiary/branch but have been terminated and receive Japanese sourced income.

A report must be filed for each person whose compensation is paid or vested. Further, if a person is paid or vested under more than one plan, a separate report must be filed for each plan. This will in most cases significantly expand the size of the submission and, in some cases, may mean that an electronic submission is required instead of a paper one.

New reporting information required

Since non-residents and former employees/directors will now be included, the Japanese tax authorities have also amended the reporting form so that information on the individual's residency in Japan and their period of contract with the company will need to be included by the employer.

In addition, with the recent introduction of the new social security and tax number system in Japan (also known as the 'My Number system'), the individuals' tax ID number ('My Number') will need to be shown on the reporting form. There is a lot of sensitivity over the My Number system, with many companies outsourcing collection and retention to third parties. This and the fact that non-residents may not be on local payroll (i.e. their My Numbers may not be collected) will make the process of reporting even more complicated for companies. Japanese subsidiaries/branches will need to consider how to modify their processes in preparing the equity report to include the My Numbers.

Changes to the Capital Gains Tax Regime

The Japanese tax authorities have put forward a proposal to amend the rules of taxation for gains realized on equity. From 1 January 2017, the authorities propose to subject all equity gains to capital gains tax for all residents. This would include foreign gains remitted by non-permanent residents who were previously solely taxable on the remitted income from their foreign gain.

The rules are still at the design stage and not yet clearly defined but we will monitor the developments and stay close to the issue to bring you further insights as soon as they become available.

Deloitte's view

The new reporting requirements will significantly increase the reporting burden for employers. The reporting form is due by 31 March following the end of the calendar year. For 2016, this will be 31 March 31 2017 and employers may therefore want to consider now what steps they must put in place to meet these new requirements.

Clients may wish to consider a formal communication to former and non-resident employees particularly those not receiving tax return support to notify them of the expansion to the employer report and to limit any potential outfall from individuals being caught as non-compliant.

Finally, if the changes to the capital gains tax regime go ahead, companies may wish to consider a communication to employees, particularly those with large numbers of non-permanent resident assignees responsible for tax on their personal income, as these individuals will need to be made aware that their overseas gains would become taxable in Japan.